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इस भाग में भिन्न-भिन्न संख्या की जाती है जिससे कि यह अलग संकलन  
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed  
as a separate compilation

## LOK SABHA

The following Bill was introduced in Lok Sabha on the 21st August, 1984:—

BILL NO. 78 OF 1984

*A Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958, the Companies (Profits) Surtax Act, 1964, the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974 and the Interest-tax Act, 1974.*

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

### CHAPTER I PRELIMINARY

1. (1) This Act may be called the Taxation Laws (Amendment) Act, 1984.

Short  
title and  
commen-  
cement.

(2) Section 84 of this Act shall come into force on the 1st day of October, 1984, and, save as otherwise provided, the remaining provisions of this Act shall come into force on the 1st day of April, 1985.

### CHAPTER II

#### AMENDMENTS TO THE INCOME-TAX ACT, 1961

43 of 1961.

2. In section 2 of the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act), for clause (47), the following clause shall be substituted, namely:—

Amend-  
ment of  
section 2.

“(47) “transfer”, in relation to a capital asset, includes,—

(i) the sale exchange or relinquishment of the asset; or

(ii) the extinguishment of any rights therein; or

(iii) the compulsory acquisition thereof under any law; or

(iv) in a case where the asset is converted by the owner thereof into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment;’.

**Amend-  
ment of  
section 9.**

3. In section 9 of the Income-tax Act, in sub-section (1), in the *Explanation* to clause (i), after clause (c), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1982, namely:—

“(d) in the case of a non-resident, being—

(1) an individual who is not a citizen of India; or

(2) a firm which does not have any partner who is a citizen of India or who is resident in India; or

(3) a company which does not have any shareholder who is a citizen of India or who is resident in India,

no income shall be deemed to accrue or arise in India to such individual, firm or company through or from operations which are confined to the shooting of any cinematograph film in India;”

**Amend-  
ment of  
section 10**

4. In section 10 of the Income-tax Act,—

(a) after clause (5), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1982, namely:—

“(5A) in the case of an individual who is not a citizen of India and is a non-resident, who comes to India solely in connection with the shooting of a cinematograph film in India by the individual, firm or company referred to in clause (d) of the *Explanation* to clause (i) of sub-section (1) of section 9, any remuneration received by him for rendering any service in connection with such shooting;”;

(b) in clause (10AA), for the words “*on superannuation*”, wherever they occur, the words “*whether on superannuation*” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1978;

(c) in clause (13A), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply in a case where—

(a) the residential accommodation occupied by the assessee is owned by him; or

(b) the assessee has not actually incurred expenditure on payment of rent (by whatever name called) in respect of the residential accommodation occupied by him;".

5. In section 13 of the Income-tax Act, in sub-section (3), in clause (b), for the words "five thousand rupees", the words "twenty-five thousand rupees" shall be substituted.

Amendment of section 13.

6. In section 16 of the Income-tax Act, in clause (i), after the proviso, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1975, namely:—

Amendment of section 16.

"*Explanation.*—For the removal of doubts, it is hereby declared that where, in the case of an assessee, salary is due from, or paid or allowed by, more than one employer, the deduction under this clause shall be computed with reference to the aggregate salary due, paid or allowed to the assessee and shall in no case exceed the amount specified under this clause;".

7. In section 17 of the Income-tax Act,—

Amendment of section 17.

(i) in clause (1), after sub-clause (v), the following sub-clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1978, namely:—

"(va) any payment received by an employee in respect of any period of leave not availed of by him;";

(ii) in clause (2),—

(a) in sub-clause (iv), the word "and" shall be omitted;

(b) in sub-clause (v), the word "and" shall be inserted at the end;

(c) after sub-clause (v), the following sub-clause shall be inserted, namely:—

'(vi) where the employer has advanced any loan to the employee for the purpose of building a house or purchasing a site or a house and a site or for purchasing a motor car, and either no interest is charged by the employer on the amount of such loan or interest is charged at a rate lower than the rate of interest which the Central Government may, having regard to the rate of interest charged by it from its employees on loans for such purpose granted to them, specify in this behalf by notification in the Official Gazette, an amount equal to,—

(a) in a case where such loan is advanced without charging any interest, the interest calculated in the prescribed manner on such loan at the rate so specified;

(b) in a case where such loan is advanced by charging interest at a rate lower than the rate so specified, the difference between the interest calculated in the prescribed manner on such loan at the rate so specified and the interest charged by the employer:

Provided that this sub-clause shall not apply in the case of—

(1) an employee of the Central Government or any State Government; or

(2) an employee, not being an employee referred to in paragraph (a) or paragraph (b) of sub-clause (iii), whose income under the head "Salaries", exclusive of the value of all benefits or amenities not provided for by way of monetary payment, does not exceed eighteen thousand rupees;.

Amend-  
ment of  
section 23.

8. In section 23 of the Income-tax Act, in sub-section (1),—

(a) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that where the property is in the occupation of a tenant, the taxes levied by any local authority in respect of the property shall, to the extent such taxes are borne by the owner, be deducted (irrespective of the previous year in which the liability to pay such taxes was incurred by the owner according to the method of accounting regularly employed by him) in determining the annual value of the property of that previous year in which such taxes are actually paid by him:";

(b) in the second proviso, the words, brackets and letters "so, however, that the income in respect of any residential unit referred to in clause (a) or clause (b) or clause (c) or clause (d) is in no case a loss" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1984;

(c) the *Explanation* shall be numbered as *Explanation 1* and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

"*Explanation 2.*—For the removal of doubts, it is hereby declared that where a deduction in respect of any taxes referred to in the first proviso to this sub-section is allowed in determining the annual value of the property in respect of any previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any earlier assessment year), no deduction shall be allowed under the first proviso in determining the annual value of the property in respect of the previous year in which such taxes are actually paid by the owner."

Insertion  
of new  
section 25A.

9. After section 25 of the Income-tax Act, the following section shall be inserted, namely:—

Special  
provision  
for cases  
where un-  
realised  
rent  
allowed as  
deduction  
is realised  
subse-  
quently,

"25A. Where a deduction has been made under clause (x) of sub-section (1) of section 24 in the assessment for any year in respect of rent from property let to a tenant which the assessee cannot realise and subsequently during any previous year the assessee has realised any amount in respect of such rent, the amount so realised shall be deemed to be income chargeable under the head "Income from house property" and accordingly charged to income-tax (without making any deduction under section 23 or section 24) as the income of that previous year, whether the assessee is the owner of that property in that year or not."

10. In section 40 of the Income-tax Act, after clause (b), the following *Explanations* shall be inserted, namely:—

Amend-  
ment of  
section 40.

*Explanation 1.*—Where interest is paid by a firm to any partner of the firm who has also paid interest to the firm, the amount of interest to be disallowed under this clause shall be limited to the amount by which the payment of interest by the firm to the partner exceeds the payment of interest by the partner to the firm.

*Explanation 2.*—Where an individual is a partner in a firm on behalf, or for the benefit, of any other person (such partner and the other person being hereinafter referred to as “partner in a representative capacity” and “person so represented” respectively),—

(i) interest paid by the firm to such individual or by such individual to the firm, otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause;

(ii) interest paid by the firm to such individual or by such individual to the firm as partner in a representative capacity and interest paid by the firm to the person so represented or by the person so represented to the firm, shall be taken into account for the purposes of this clause.

*Explanation 3.*—Where an individual is a partner in a firm, otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.

11. In section 40A of the Income-tax Act, in sub-section (5), in clause (b) of *Explanation 2.*—

Amend-  
ment of  
section  
40A.

(a) in sub-clause (iv), the word “and” shall be omitted;

(b) in sub-clause (v), for the words “an annuity”, the words “an annuity; and” shall be substituted;

(c) after sub-clause (v), the following sub-clause shall be inserted, namely:—

“(vi) the amount treated as a perquisite under sub-clause (vi) of clause (2) of section 17.”.

12. In section 45 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amend-  
ment of  
section 45.

“(2) Notwithstanding anything contained in sub-section (1), the profits or gains arising from the transfer by way of conversion by the owner of a capital asset into, or its treatment by him as, stock-in-trade of a business carried on by him shall be chargeable to income-tax as his income of the previous year in which such stock-in-trade is sold or otherwise transferred by him and, for the purposes of section 48, the fair market value of the asset on the date of



such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.”.

Insertion  
of new  
section  
47A.

13. After section 47 of the Income-tax Act, the following section shall be inserted, namely:—

Withdra-  
wal of  
exemption  
in certain  
cases.

‘47A. Where at any time before the expiry of a period of eight years from the date of the transfer of a capital asset referred to in clause (iv) or, as the case may be, clause (v) of section 47,—

(i) such capital asset is converted by the transferee company into, or is treated by it as, stock-in-trade of its business; or

(ii) the parent company or its nominees or, as the case may be, the holding company ceases or cease to hold the whole of the share capital of the subsidiary company,

the amount of profits or gains arising from the transfer of such capital asset not charged under section 45 by virtue of the provisions contained in clause (iv) or, as the case may be, clause (v) of section 47 shall, notwithstanding anything contained in the said clauses, be deemed to be income chargeable under the head “Capital gains” of the previous year in which such transfer took place.’.

Amend-  
ment of  
section 49.

14. In section 49 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

‘(3) Notwithstanding anything contained in sub-section (1), where the capital gain arising from the transfer of a capital asset referred to in clause (iv) or, as the case may be, clause (v) of section 47 is deemed to be income chargeable under the head “Capital gains” by virtue of the provisions contained in section 47A, the cost of acquisition of such asset to the transferee company shall be the cost for which such asset was acquired by it.’.

Substitu-  
tion of new  
section for  
section 53.

15. For section 53 of the Income-tax Act, the following section shall be substituted, namely:—

Exemption  
of capital  
gains from  
a residen-  
tial house.

‘53 Notwithstanding anything contained in section 45, where in the case of an assessee being an individual, the capital gain arises from the transfer of a capital asset (other than a short-term capital asset) being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head “Income from house property”, the capital gain arising from such transfer shall be dealt with in accordance with the following provisions of this section, that is to say,—

(a) in a case where the full value of the consideration received or accruing as a result of the transfer of such capital asset does not exceed two hundred thousand rupees, the whole of the capital gain shall not be charged under section 45;

(b) in a case where the full value of such consideration exceeds two hundred thousand rupees, so much of the capital gain as bears to the whole of the capital gain the same

proportion as the amount of two hundred thousand rupees bears to such consideration shall not be charged under section 45:

Provided that nothing contained in this section shall apply to a case where the assessee owns on the date of such transfer any other residential house.

16. In section 54E of the Income-tax Act, in sub-section (1), after the proviso and before *Explanation 1*, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1984, namely:—

Amend-  
ment of  
section  
54E,

“Provided further that in a case where the transfer of the original asset is by way of compulsory acquisition under any law and the full amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period of six months referred to in this sub-section shall, in relation to so much of such compensation as is not received on the date of the transfer, be reckoned from the date immediately following the date on which such compensation is received by the assessee.”.

17. In section 64 of the Income-tax Act, in sub-section (1),—

Amend-  
ment of  
section 64.

(a) in clause (vi), the word “and” shall be omitted;

(b) in clause (vii), for the words “or both.”, the words “or both; and” shall be substituted;

(c) after clause (vii), the following clause shall be inserted, namely:—

“(viii) to any person or association of persons from assets transferred directly or indirectly on or after the 1st day of June, 1973, otherwise than for adequate consideration, to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his son’s wife or son’s minor child or both.”.

18. In section 80 of the Income-tax Act, for the words and figures ‘under section 139’, the words, brackets and figures “within the time allowed under sub-section (1) of section 139 or within such further time as may be allowed by the Income-tax Officer” shall be substituted.

Amend-  
ment of  
section 80.

19. In section 80C of the Income-tax Act, in sub-section (2),—

(i) in clause (g), for the words “consisting only of”, the words “consisting, in either case, only of” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1971;

Amend-  
ment of  
section  
80C.

(ii) in clause (h), for the words “or an association of persons or a body of individuals consisting only of”, the words “or, where the assessee is an association of persons or a body of individuals consisting, in either case, only of” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1983.

20. In section 80CC of the Income-tax Act, in sub-section (1), in clause (c), for the words “consisting only of”, the words “consisting, in either case, only of” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1978.

Amend-  
ment of  
section  
80CC.

21. In section 80L of the Income-tax Act,—

(a) in sub-section (1), in clause (c), for the words “consisting only of”, the words “consisting, in either case, only of” shall be sub-

Amend-  
ment of  
section  
80L.

stituted and shall be deemed to have been substituted with effect from the 1st day of April, 1972;

(b) after sub-section (2), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely:—

“(3) For the removal of doubts, it is hereby declared that where the income referred to in sub-section (1) is derived from any asset held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under the said sub-section in respect of such income in computing the total income of any partner of the firm or any member of the association or body.”.

Amend-  
ment of  
section  
130.

22. In section 130 of the Income-tax Act, in sub-section (2), for the word and figures “sections 253”, the word and figures “sections 132, 253” shall be substituted with effect from the 1st day of October, 1984.

Amend-  
ment of  
section  
132.

23. In section 132 of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (5), for the words “ninety days”, the words “one hundred and twenty days” shall be substituted;

(b) in sub-section (11), for the words and brackets “such authority, as may be notified in this behalf by the Central Government in the Official Gazette (hereafter in this section referred to as the notified authority),”, the words “the Commissioner” shall be substituted;

(c) after sub-section (11), the following sub-section shall be inserted, namely:—

“(11A) Every application referred to in sub-section (11) which is pending immediately before the 1st day of October, 1984, before an authority notified under that sub-section as it stood immediately before that day shall stand transferred on that day to the Commissioner, and the Commissioner may proceed with such application from the stage at which it was on that day:

Provided that the applicant may demand that before proceeding further with the application, he be re-heard.”;

(d) in sub-section (12),—

(i) for the words “the notified authority”, the words “the Commissioner” shall be substituted;

(ii) for the words “as it thinks fit”, the words “as it or he thinks fit” shall be substituted;

(e) in *Explanation 1*, for the words “ninety days”, the words “one hundred and twenty days” shall be substituted.

Amend-  
ment of  
sections  
132B,  
139, 201,  
213 to  
217, 220  
243,  
244 and  
269K and  
Second  
Schedule.

24. In section 132B, section 139, section 201, sections 213 to 217, section 220, section 243, section 244 and section 269K of the Income-tax Act and in rule 60 of the Second Schedule to that Act, for the words “twelve per cent.”, wherever they occur, the words “fifteen per cent.” shall be substituted with effect from the 1st day of October, 1984.



Amend-  
ment of  
section  
139.

**25. In section 139 of the Income-tax Act,—**

(a) in sub-section (1A),—

(i) for clause (b), the following clause shall be substituted, namely:—

‘(b) his income or the income of such other person under the head “Salaries”, exclusive of the value of all benefits or amenities not provided for by way of monetary payment, does not exceed eighteen thousand rupees;’;

(ii) the *Explanation* shall be omitted;

(b) in sub-section (8),—

(i) in clause (a), for *Explanation 2*, the following *Explanation* shall be substituted, namely:—

“*Explanation 2.*—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this sub-section.”;

(ii) for clause (b), the following clause shall be substituted, namely:—

“(b) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount of tax on which interest was payable under this sub-section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.”.

**26. In section 144B of the Income-tax Act, in sub-section (1), for the words “the Income-tax Officer proposes to make any variation”, the words, figures and letters “the Income-tax Officer proposes to make, before the 1st day of October, 1984, any variation” shall be substituted with effect from the 1st day of October, 1984.**

Amend-  
ment of  
section  
144B.

**27. In section 146 of the Income-tax Act, in sub-section (1), after the words and figures “under section 144”, the words, figures and letters “before the 1st day of October, 1984” shall be inserted with effect from the 1st day of October, 1984.**

Amend-  
ment of  
section  
146.

**28. In section 153 of the Income-tax Act, with effect from the 1st day of October, 1984,—**

Amend-  
ment of  
section  
153.

(a) in sub-section (1),—

(i) in clause (c), for the word and figures “section 139”, the words and figures “section 139; or” shall be substituted;

(ii) after clause (c), the following clause shall be inserted, namely:—

“(d) the expiry of six months from the end of the month in which an application under clause (a) of sub-section (2) of section 143 is made by the assessee,”;

(b) in *Explanation 1* below sub-section (3), after clause (iv), the following clause shall be inserted, namely:—

“(va) the period (not exceeding sixty days) commencing from the date on which the Income-tax Officer received the declaration under sub-section (1) of section 158A and ending with the date on which the order under sub-section (3) of that section is made by him, or”.

Amend-  
ment of  
section  
154.

29. In section 154 of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) With a view to rectifying any mistake apparent from the record, an income-tax authority referred to in section 116 may amend any order passed by it under the provisions of this Act.”;

(b) in sub-section (7), for the words “from the date of the order sought to be amended”, the words “from the end of the financial year in which the order sought to be amended was passed” shall be substituted.

Amend-  
ment of  
section  
155.

30. In section 155 of the Income-tax Act,—

(a) in sub-section (1), with effect from the 1st day of October, 1984,—

(i) in clause (b), after the word and figures “section 264,”, the word “or” shall be inserted;

(ii) after clause (b), the following clause shall be inserted, namely:—

“(c) on any order passed under sub-section (4) of section 245D on the application made by the firm,”;

(iii) for the words “from the date of the final order passed”, the words “from the end of the financial year in which the final order was passed” shall be substituted;

(b) in sub-section (2), with effect from the 1st day of October, 1984,

(i) in clause (b), after the word and figures “section 264,”, the word “or” shall be inserted;

(ii) after clause (b), the following clause shall be inserted, namely:—

“(c) on any order passed under sub-section (4) of section 245D on the application made by the association or body,”;

(iii) for the words "from the date of the final order passed", the words "from the end of the financial year in which the final order was passed" shall be substituted;

(c) in sub-section (4), for the words "from the date of the order passed", the words "from the end of the financial year in which the order was passed" shall be substituted with effect from the 1st day of October, 1984;

(d) in sub-section (7), for the words "from the date of the final order passed", the words "from the end of the financial year in which the final order was passed" shall be substituted with effect from the 1st day of October, 1984;

(e) after sub-section (7A), the following sub-section shall be inserted, namely:—

'(7B) Where in the assessment for any year, the capital gain arising from the transfer of a capital asset is not charged under section 45 by virtue of the provisions of clause (iv) or, as the case may be, clause (v) of section 47, but is deemed under section 47A to be income chargeable under the head "Capital gains" of the previous year in which the transfer took place by reason of—

(i) such capital asset being converted by the transferee company into, or being treated by it as, stock-in-trade of its business; or

(ii) the parent company or its nominees or, as the case may be the holding company ceasing to hold the whole of the share capital of the subsidiary company,

at any time before the expiry of the period of eight years from the date of such transfer, the Income-tax Officer may, notwithstanding anything contained in this Act, re-compute the total income of the transferor company for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the capital asset was so converted or treated or in which the parent company or its nominees or, as the case may be the holding company ceased to hold the whole of the share capital of the subsidiary company.';

(f) in sub-section (8), for the words "reckoned from the date of the assessment", the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984;

(g) in sub-section (9), for the words "reckoned from the date of the assessment", the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984;

(h) in clause (a) of sub-section (10), for the words "reckoned from the date of the assessment" the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984;

(i) in sub-section (10A), for the words "reckoned from the date of the assessment", the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984;

(j) in sub-section (10C), for the words "reckoned from the date of the assessment", the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984.

Insertion  
of new  
Chapter  
XIVA.

31. In the Income-tax Act, after Chapter XIV, the following Chapter shall be inserted with effect from the 1st day of October, 1984, namely:—

### 'CHAPTER XIVA

#### SPECIAL PROVISION FOR AVOIDING REPETITIVE APPEALS

Procedure  
when as-  
sessee  
claims .  
identical  
question  
of law  
is pend-  
ing  
before  
High  
Court or  
Supreme  
Court.

158A. (1) Notwithstanding anything contained in this Act, where an assessee claims that any question of law arising in his case for an assessment year which is pending before the Income-tax Officer or any appellate authority (such case being hereafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another assessment year which is pending before the High Court on a reference under section 256 or before the Supreme Court on a reference under section 257 or in appeal under section 261 (such case being hereafter in this section referred to as the other case), he may furnish to the Income-tax Officer or the appellate authority, as the case may be, a declaration in the prescribed form and verified in the prescribed manner, that if the Income-tax Officer or the appellate authority, as the case may be, agrees to apply to the relevant case the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case in appeal before any appellate authority or for a reference before the High Court under section 256 or the Supreme Court under section 257 or in appeal before the Supreme Court under section 261.

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall call for a report from the Income-tax Officer on the correctness of the claim made by the assessee and where the Income-tax Officer makes a request to the appellate authority to give him an opportunity of being heard in the matter, the appellate authority shall allow him such opportunity.

(3) The Income-tax Officer or the appellate authority, as the case may be, may, by order in writing,—

(i) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case; or

(ii) reject the claim if he or it is not so satisfied.

(4) Where a claim is admitted under sub-section (3),—

(a) the Income-tax Officer or, as the case may be, the appellate authority may make an order disposing of the relevant case

without awaiting the final decision on the question of law in the other case; and

(b) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or for a reference before the High Court under section 256 or the Supreme Court under section 257 or in appeal before the Supreme Court under section 261.

(5) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the Income-tax Officer or the appellate authority, as the case may be, shall, if necessary, amend the order referred to in clause (a) of sub-section (4) conformably to such decision.

(6) An order under sub-section (3) shall be final and shall not be called in question in any proceeding by way of appeal, reference or revision under this Act.

*Explanation.*—In this section,—

(a) “appellate authority” means the Appellate Assistant Commissioner or the Commissioner (Appeals) or the Appellate Tribunal;

(b) “case”, in relation to an assessee, means any proceeding under this Act for the assessment of the total income of the assessee or for the imposition of any penalty on him.’

32. In section 186 of the Income-tax Act, in sub-section (4), for the words “the date of the order cancelling the registration”, the words “the end of the financial year in which the order cancelling the registration was passed” shall be substituted with effect from the 1st day of October, 1984. Amendment of section 186.

33. In section 187 of the Income-tax Act, to sub-section (2), the following proviso shall be added and shall be deemed to have been added with effect from the 1st day of April, 1975, namely:— Amendment of section 187.

“Provided that nothing contained in clause (a) shall apply to a case where the firm is dissolved on the death of any of its partners.”.

34. In section 208 of the Income-tax Act, with effect from the 2nd day of April, 1985,— Amendment of section 208.

(a) in sub-section (1), in clause (a), for the words, brackets, letter and figures “clause (a) of section 209”, the words, brackets, letter and figures “clause (a) of sub-section (1) of section 209” shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Notwithstanding anything contained in the foregoing provisions of this section, where in the case of an assessee referred to in clause (c) or clause (d) of sub-section (2), the amount of advance tax payable by him during the financial year, as computed in accordance with the provisions of this section, does not exceed fifteen hundred rupees, it shall not be necessary for such assessee to pay any advance tax during that financial year.



Amend-  
ment of  
section  
214.

35. In section 214 of the Income-tax Act,—

(a) in sub-section (1), for the words "tax determined on regular assessment", the words "assessed tax" shall be substituted;

(b) for sub-section (1A), the following sub-section shall be substituted, namely:—

"(1A) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest payable and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly.";

(c) after sub-section (2), the following *Explanations* shall be inserted, namely:—

*Explanation 1.*—In this section, "assessed tax" shall have the same meaning as in sub-section (5) of section 215.

*Explanation 2.*—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

Amend-  
ment of  
section  
215.

36. In section 215 of the Income-tax Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Income tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.";

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section and sections 216, 217 and 273."

37. In section 220 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of October, 1984, namely:—

Amend-  
ment of  
section  
220

“(2A) Notwithstanding anything contained in sub-section (2), the Board may reduce or waive the amount of interest payable by an assessee under the said sub-section if, on the recommendation made by the Commissioner in this behalf, it is satisfied that—

(i) payment of such amount would cause genuine hardship to the assessee;

(ii) default in the payment of the amount on which interest was payable under the said sub-section was due to circumstances beyond the control of the assessee; and

(iii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.”.

38. In section 231 of the Income-tax Act, for the words “one year”, wherever they occur, the words “three years” shall be substituted with effect from the 1st day of October, 1984.

Amend-  
ment of  
section  
231.

39. In section 245A of the Income-tax Act, for clause (a), the following clause shall be substituted with effect from the 1st day of October, 1984, namely:—

Amend-  
ment of  
section  
245A.

“(a) “case” means any proceeding under this Act for the assessment or re-assessment of any person in respect of any year or years, or by way of appeal or revision in connection with such assessment or re-assessment, which may be pending before an income-tax authority on the date on which an application under sub-section (1) of section 245C is made;”.

40. In section 245C of the Income-tax Act, for sub-section (1), the following sub-sections shall be substituted with effect from the 1st day of October, 1984, namely:—

Amend-  
ment of  
section  
245C.

“(1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his income which has not been disclosed before the Income-tax Officer, the manner in which such income has been derived, the additional amount of income-tax payable on such income and such other particulars as may be prescribed, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless the additional amount of income-tax payable on the income disclosed in the application exceeds fifty thousand rupees.

(1A) For the purposes of sub-section (1) of this section and sub-sections (2A) to (2D) of section 245D, the additional amount of income-tax payable in respect of the income disclosed in an application made under sub-section (1) of this section shall be the amount calculated in accordance with the provisions of sub-sections (1B) to (1D).

(1B) Where the income disclosed in the application relates to only one previous year,—

(i) if the applicant has not furnished a return in respect of the total income of that year and no assessment has been made in respect of the total income of that year, tax shall be calculated on the income disclosed in the application as if such income were the total income;

(ii) if the applicant has furnished a return in respect of the total income of that year and no assessment has been made in pursuance of such return, tax shall be calculated on the aggregate of the total income returned and the income disclosed in the application as if such aggregate were the total income; and

(iii) if an assessment in respect of the total income of that year has been made, tax shall be calculated on the aggregate of the total income as assessed and the income disclosed in the application as if such aggregate were the total income.

(1C) The tax as calculated under sub-section (1B) shall be reduced,—

(a) in a case referred to in clause (i) of sub-section (1B), by the sum, if any, deducted at source under Chapter XVII-B or paid in advance under Chapter XVII-C;

(b) in a case referred to in clause (ii) of sub-section (1B), by the aggregate of the sums referred to in clause (a) and the tax, if any, paid by the applicant under section 140A; and

(c) in a case referred to in clause (iii) of sub-section (1B), by the aggregate of the sums and tax referred to in clause (b) as increased by the tax, if any, paid in pursuance of the assessment made in respect of the total income of that year,

and the resultant amount so arrived at shall be the additional amount of income-tax payable in respect of the income disclosed in the application relating to that year.

(1D) Where the income disclosed in the application relates to more than one previous year, the additional amount of income-tax payable in respect of the income disclosed for each of the years shall first be calculated in accordance with the provisions of sub-sections (1B) and (1C) and the aggregate of the amount so arrived at in respect of each of the years for which the application has been made under sub-section (1) shall be the additional amount of income-tax payable in respect of the income disclosed in the application.

(1E) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing belonging to an assessee are seized under section 132, the assessee shall not be entitled to make an application under sub-section (1) before the expiry of one hundred and twenty days from the date of the seizure.”

Amend-  
ment of  
section  
245D.

41. In section 245D of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1A), the words and figures “under the Indian Income-tax Act, 1922, or” shall be omitted;

(b) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(2A) Subject to the provisions of sub-section (2B), the assessee shall, within thirty-five days of the receipt of a copy of the order under sub-section (1), pay the additional amount of income-tax payable on the income disclosed in the application and shall furnish proof of such payment to the Settlement Commission.

(2B) If the Settlement Commission is satisfied, on an application made in this behalf by the assessee, that he is unable for good and sufficient reasons to pay the additional amount of income-tax referred to in sub-section (2A) within the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the assessee furnishes adequate security for the payment thereof.

(2C) Where the additional amount of income-tax is not paid within the time specified under sub-section (2A), then, whether or not the Settlement Commission has extended the time for payment of the amount which remains unpaid or has allowed payment thereof by instalments under sub-section (2B), the assessee shall be liable to pay simple interest at fifteen per cent. per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days referred to in sub-section (2A).

(2D) Where the additional amount of income-tax referred to in sub-section (2A) is not paid by the assessee within the time specified under that sub-section or extended under sub-section (2B), as the case may be, the Settlement Commission may direct that the amount of income-tax remaining unpaid, together with any interest payable thereon under sub-section (2C), be recovered and any penalty for default in making payment of such additional amount may be imposed and recovered, in accordance with the provisions of Chapter XVII, by the Income-tax Officer having jurisdiction over the assessee.”;

(c) in sub-section (6), for the words “tax, penalty or interest”, the words “tax or penalty” shall be substituted;

(d) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6A) Where any tax payable in pursuance of an order under sub-section (4) is not paid by the assessee within thirty-five days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such tax or has allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at fifteen per cent. per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days aforesaid.”;

(e) after sub-section (7), the following sub-section shall be inserted, namely:—

“(8) For the removal of doubts, it is hereby declared that nothing contained in section 153 shall apply to any order passed under sub-section (4) or to any order of assessment, re-assessment or re-computation required to be made by the Income-tax Officer in pursuance of any directions contained in such order passed by the Settlement Commission.”.

Amend-  
ment of  
section  
245E.

42. In section 245E of the Income-tax Act, the words and figures "under the Indian Income-tax Act, 1922, or" shall be omitted with effect from the 1st day of October, 1984.

Amend-  
ment of  
section  
245H.

43. In section 245H of the Income-tax Act, in sub-section (1), for the words "and also from the imposition of any penalty", the words and brackets "and also (either wholly or in part) from the imposition of any penalty" shall be substituted with effect from the 1st day of October, 1984.

Amend-  
ment of  
section  
245M.

44. In section 245M of the Income-tax Act, in sub-section (1), after the words "on withdrawing such appeal from the Appellate Tribunal", the words, figures and letters "before the 1st day of October, 1984" shall be inserted with effect from the 1st day of October, 1984.

Amend-  
ment of  
section  
246.

45. In section 246 of the Income-tax Act, in sub-section (2), with effect from the 1st day of October, 1984,—

(a) after clause (c), the following clause shall be inserted, namely:—

"(d) an order of assessment made after the 30th day of September, 1984, on the basis of directions issued by the Inspecting Assistant Commissioner under section 144A;"

(b) after clause (f), the following clause shall be inserted, namely:—

"(ff) an order made by the Inspecting Assistant Commissioner under section 154;"

Amend-  
ment of  
section  
253.

46. In section 253 of the Income-tax Act, in sub-section (1), clause (b) shall be omitted with effect from the 1st day of October, 1984.

Amend-  
ment of  
section  
263.

47. In section 263 of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by the Income-tax Officer shall include—

(a) an order of assessment made on the basis of directions issued by the Inspecting Assistant Commissioner under section 144A or section 144B; and

(b) an order made by the Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of an Income-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 125 or under sub-section (1) of section 125A;"

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed."



48. In section 271 of the Income-tax Act, in sub-section (1), after *Explanation 4*, the following *Explanation* shall be inserted with effect from the 1st day of October, 1984, namely:—

Amend-  
ment of  
section  
271.

“*Explanation 5*.—Where in the course of a search under section 132, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilising (wholly or in part) his income,—

(a) for any previous year which has ended before the date of the search, but the return of income for such year has not been furnished before the said date or, where such return has been furnished before the said date, such income has not been declared therein; or

(b) for any previous year which is to end on or after the date of the search,

then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income, unless such income is, or the transactions resulting in such income are, recorded—

(i) in a case falling under clause (a), before the date of the search; and

(ii) in a case falling under clause (b), on or before such date.

in the books of account, if any, maintained by him for any source of income or such income is otherwise disclosed to the Commissioner before the said date.”.

49. In section 273 of the Income-tax Act, in sub-section (2), the *Explanation* shall be numbered as *Explanation 1* and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

Amend-  
ment of  
section  
273.

“*Explanation 2*.—When the person liable to penalty is a registered firm or an unregistered firm which has been assessed under clause (b) of section 183, then, notwithstanding anything contained in the other provisions of this Act, the penalty imposable under this section shall be the same amount as would be imposable on that firm if that firm were an unregistered firm.”.

50. In section 273A of the Income-tax Act, with effect from the 1st day of October, 1984,—

Amend-  
ment of  
section  
273 A.

(a) in sub-section (1), the *Explanation* shall be numbered as *Explanation 1* and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

“*Explanation 2*.—Where any books of account, other documents, money, bullion, jewellery or other valuable article or

thing belonging to a person are seized under section 132 and within fifteen days of such seizure, the person makes a full and true disclosure of his income to the Commissioner, such person shall, for the purposes of clause (b) of this sub-section, be deemed to have made, prior to the detection by the Income-tax Officer of the concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, voluntarily and in good faith, a disclosure of such particulars.”;

(b) in sub-section (2), in clause (a), for the words “fifty thousand rupees”, the words “one hundred thousand rupees” shall be substituted;

(c) to sub-section (4), the following proviso shall be added, namely:—

“Provided that where the amount of any penalty payable under this Act or, where such application relates to more than one penalty, the aggregate amount of such penalties exceeds one hundred thousand rupees, no order reducing or waiving the amount or compounding any proceeding for its recovery under this sub-section shall be made by the Commissioner except with the previous approval of the Board.”.

Amend-  
ment of  
section  
279.

51. In section 279 of the Income-tax Act, in sub-section (1), after the word, figures and letter “section 276D,”, the word, figures and letters “section 276DD,” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1984.

Amend-  
ment of  
section  
288.

52. In section 288 of the Income-tax Act, sub-section (3) shall be omitted with effect from the 1st day of October, 1984.

### CHAPTER III

#### AMENDMENTS TO THE WEALTH-TAX ACT, 1957

Amend-  
ment of  
section 4

53. In section 4 of the Wealth-tax Act, 1957 (hereafter in this Chapter referred to as the Wealth-tax Act), in sub-section (1), in clause (a),—

27 of 1957.

(a) in sub-clause (v), the word “or” shall be inserted at the end;

(b) after sub-clause (v), the following sub-clause shall be inserted, namely:—

“(vi) by a person or association of persons to whom such assets have been transferred by the individual, directly or indirectly, on or after the 1st day of June, 1973, otherwise than for adequate consideration for the immediate or deferred benefit of the son’s wife, or the son’s minor child, of such individual or both.”.

Amend-  
ment of  
section 5.

54. In section 5 of the Wealth-tax Act,—

(a) in sub-section (1),—

(i) after clause (xxviiia) [directed to be inserted by item (3) of sub-clause (i) of clause (a) of section 34 of the Finance Act, 1984], the following clause shall be inserted, namely:—

21 of 1984.

“(xxviiib) any deposits with any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;”;

(ii) in clause (xxviii), after the words "being a person of Indian origin", the words and brackets "or a citizen of India (hereafter in this clause referred to as such person)" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1977;

(b) in sub-section (1A), after the brackets, figures and letter "(xxviii)," the brackets, figures and letter "(xxvib)," shall be inserted;

(c) in sub-section (3),—

(i) after the brackets, figures and letter "(xxviii)," the brackets, figures and letter "(xxvib)," shall be inserted;

(ii) in the *Explanation*, for the words "thirty days", the words "sixty days" shall be substituted.

55. In the Wealth-tax Act, for section 8A, the following section shall be substituted with effect from the 1st day of October, 1984, namely:—

"8A. (1) The Commissioner may, by general or special order in writing, direct that—

(a) the powers conferred on the Wealth-tax Officer by or under this Act shall, in respect of any specified case or class of cases or of any specified person or class of persons, be exercised by the Inspecting Assistant Commissioner;

(b) such of the functions assigned to the Wealth-tax Officer by or under this Act, as are specified in any such order may, in respect of any specified area or specified cases, or classes of cases or specified persons or classes of persons, be performed by an Inspector of Wealth-tax or any member of the ministerial staff appointed to work under the Commissioner or any other wealth-tax authority subordinate to him, and specified in such order, subject to such conditions, restrictions or limitations as may be specified therein:

Provided that the Commissioner shall not, unless he is authorised in this behalf by the Board by general or special order in writing, make an order under clause (b) in relation to the functions of a Wealth-tax Officer mentioned in the following provisions of this Act, namely, sections 15B, 16, 17, 18, 20, 22, 24, 32, 37 and 37A.

(2) For the purposes of any case or person or proceeding under this Act in respect of which or whom an order under sub-section (1) applies,—

(a) where such order is made under clause (a) of the said sub-section, references in this Act or in any rule made thereunder to the Wealth-tax Officer shall be deemed to be references to the Inspecting Assistant Commissioner and any provision of this Act requiring approval or sanction of the Inspecting Assistant Commissioner shall not apply;

(b) where such order is made under clause (b) of the said sub-section, references in this Act or in any rule made thereunder to the Wealth-tax Officer shall be deemed to include references to the Inspector of Wealth-tax or the member of the ministerial staff specified in such order "

Substitution of new section for section 8A. Powers of Commissioner respecting specified areas, cases, persons, etc.

Amend-  
ment of  
section  
17A.

56. In section 17A of the Wealth-tax Act, in *Explanation 1*, after clause (ii), the following clause shall be inserted with effect from the 1st day of October, 1984, namely:—

“(iia) the period (not exceeding sixty days) commencing from the date on which the Wealth-tax Officer received the declaration under sub-section (1) of section 18C and ending with the date on which the order under sub-section (3) of that section is made by him, or”.

Amend-  
ment of  
section 18.

57. In section 18 of the Wealth-tax Act, in sub-section (1), after *Explanation 4*, the following *Explanation* shall be inserted with effect from the 1st day of October, 1984, namely:—

“*Explanation 5*.—Where in the course of a search under section 37A, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets represent or form part of his net wealth,—

(a) on any valuation date falling before the date of the search, but the return in respect of the net wealth on such date has not been furnished before the date of the search or, where such return has been furnished before the said date, such assets have not been declared in such return; or

(b) on any valuation date falling on or after the date of the search,

then, notwithstanding that such assets are declared by him in any return of net wealth furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of such assets or furnished inaccurate particulars of such assets, unless such assets are recorded,—

(i) in a case falling under clause (a), before the date of the search; and

(ii) in a case falling under clause (b), on or before such date, in the books of account, if any, maintained by him or such assets are otherwise disclosed to the Commissioner before the said date.”.

Amend-  
ment of  
section  
18B.

58. In section 18B of the Wealth-tax Act, in sub-section (1), with effect from the 1st day of October, 1984,—

(a) the *Explanation* shall be numbered as *Explanation 1*; and

(b) after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

“*Explanation 2*.—Where any books of account or other documents belonging to a person are seized under section 37A and within fifteen days of such seizure, the person makes a full and true disclosure of his net wealth to the Commissioner such person shall, for the purposes of clause (b) of this sub-section, be deemed to have made, prior to the detection by the Wealth-tax Officer of the concealment of particulars of assets or of the inaccuracy of particulars furnished in respect of any asset or debt in respect of which the penalty is impossible, voluntarily and in good faith, a disclosure of such particulars.”.

59. In the Wealth-tax Act, after Chapter IV, the following Chapter shall be inserted with effect from the 1st day of October, 1984, namely:—

Insertion  
of new  
Chapter  
IVA.

**'CHAPTER IVA**

**SPECIAL PROVISION FOR AVOIDING REPETITIVE**

**APPEALS**

18C. (1) Notwithstanding anything contained in this Act, where an assessee claims that any question of law arising in his case for an assessment year which is pending before the Wealth-tax Officer or any appellate authority (such case being hereafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another assessment year which is pending before the High Court or the Supreme Court on a reference under section 27 or in appeal before the Supreme Court under section 29 (such case being hereafter in this section referred to as the other case), he may furnish to the Wealth-tax Officer or the appellate authority, as the case may be, a declaration in the prescribed form and verified in the prescribed manner, that if the Wealth-tax Officer or the appellate authority, as the case may be, agrees to apply to the relevant case the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case in appeal before any appellate authority or for a reference before the High Court or the Supreme Court under section 27 or in appeal before the Supreme Court under section 29.

Procedure  
when asses-  
see claims  
identical  
question of  
law is pend-  
ing before  
High Court  
or Supreme  
Court.

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall call for a report from the Wealth-tax Officer on the correctness of the claim made by the assessee and, where the Wealth-tax Officer makes a request to the appellate authority to give him an opportunity of being heard in the matter, the appellate authority shall allow him such opportunity.

(3) The Wealth-tax Officer or the appellate authority, as the case may be, may, by order in writing,—

(i) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case; or

(ii) reject the claim if he or it is not so satisfied.

(4) Where a claim is admitted under sub-section (3),—

(a) the Wealth-tax Officer or, as the case may be, the appellate authority may make an order disposing of the relevant case without awaiting the final decision on the question of law in the other case; and

(b) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or for a reference before the High Court or the Supreme Court under section 27 or in appeal before the Supreme Court under section 29.

(5) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the Wealth-tax Officer or the appellate authority, as the case may be, shall, if necessary, amend the order referred to in clause (a) of sub-section (4) conformably to such decision.

(6) An order under sub-section (3) shall be final and shall not be called in question in any proceeding by way of appeal, reference or revision under this Act.



*Explanation.*—In this section,—

(a) “appellate authority” means the Appellate Assistant Commissioner or the Commissioner (Appeals) or the Appellate Tribunal;

(b) “case”, in relation to an assessee, means any proceeding under this Act for the assessment of the net wealth of the assessee or for the imposition of any penalty on him.’.

Amend-  
ment of  
section  
22A.

60. In section 22A of the Wealth-tax Act, for clause (a), the following clause shall be substituted with effect from the 1st day of October, 1984, namely:—

‘(a) “case” means any proceeding under this Act for the assessment or re-assessment of any person in respect of any year or years, or by way of appeal or revision in connection with such assessment or re-assessment, which may be pending before a wealth-tax authority on the date on which an application under sub-section (1) of section 22C is made;’.

Amend-  
ment of  
section  
22C.

61. In section 22C of the Wealth-tax Act, for sub-section (1), the following sub-sections shall be substituted with effect from the 1st day of October, 1984, namely:—

‘(1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his wealth which has not been disclosed before the Wealth-tax Officer, the manner in which such wealth has been derived, the additional amount of wealth-tax payable on such wealth and such other particulars as may be prescribed, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided.

(1A) For the purposes of sub-section (1) of this section and sub-sections (2A) to (2D) of section 22D, the additional amount of wealth-tax payable in respect of the wealth disclosed in an application made under sub-section (1) of this section shall be the amount calculated in accordance with the provisions of sub-sections (1B) to (1D).

(1B) Where the wealth disclosed in the application relates to only one assessment year,—

(a) if the applicant has not furnished a return in respect of the net wealth for that year and no assessment has been made in respect of the net wealth for that year, wealth-tax shall be calculated on the wealth disclosed in the application as if such wealth were the net wealth;

(b) if the applicant has furnished a return in respect of the net wealth for that year and no assessment has been made in pursuance of such return, wealth-tax shall be calculated on the aggregate of the net wealth returned and the wealth disclosed in the application as if such aggregate were the net wealth; and

(c) if an assessment in respect of the net wealth for that year has been made, wealth-tax shall be calculated on the aggregate of the net wealth as assessed and the wealth disclosed in the application as if such aggregate were the net wealth.

(1C) The wealth-tax as calculated under sub-section (1B) shall,—

(a) in a case referred to in clause (b) of sub-section (1B), be reduced by the wealth-tax, if any, paid by the applicant under section 15B; and

(b) in a case referred to in clause (c) of sub-section (1B), be reduced by the aggregate of the wealth-tax referred to in clause (a) and

the wealth-tax, if any, paid by the applicant in pursuance of the assessment made in respect of the net wealth for that year,

and the amount referred to in clause (a) of sub-section (1B) or, as the case may be, the resultant amount arrived at under clause (a) or clause (b), as the case may be, shall be the additional amount of wealth-tax payable in respect of the wealth disclosed in the application relating to that year.

(1D) Where the wealth disclosed in the application relates to more than one assessment year, the additional amount of wealth-tax payable in respect of the wealth disclosed for each of the years shall first be calculated in accordance with the provisions of sub-sections (1B) and (1C) and the aggregate of the amount so arrived at in respect of each of the years for which the application has been made under sub-section (1) shall be the additional amount of wealth-tax payable in respect of the wealth disclosed in the application.

(1E) Where any books of account or other documents belonging to an assessee are seized under section 37A, the assessee shall not be entitled to make an application under sub-section (1) before the expiry of one hundred and twenty days from the date of the seizure.

62. In section 22D of the Wealth-tax Act, with effect from the 1st day of October, 1984,—

Amend-  
ment of  
section  
22D.

(a) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(2A) Subject to the provisions of sub-section (2B), the assessee shall, within thirty-five days of the receipt of a copy of the order under sub-section (1), pay the additional amount of wealth-tax payable on the wealth disclosed in the application and shall furnish proof of such payment to the Settlement Commission.

(2B) If the Settlement Commission is satisfied, on an application made in this behalf by the assessee, that he is unable for good and sufficient reasons to pay the additional amount of wealth-tax referred to in sub-section (2A) within the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the assessee furnishes adequate security for the payment thereof.

(2C) Where the additional amount of wealth-tax is not paid within the time specified under sub-section (2A), then, whether or not the Settlement Commission has extended the time for payment of the amount which remains unpaid or has allowed payment thereof by instalments under sub-section (2B), the assessee shall be liable to pay simple interest at fifteen per cent. per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days referred to in sub-section (2A).

(2D) Where the additional amount of wealth-tax referred to in sub-section (2A) is not paid by the assessee within the time specified under that sub-section or extended under sub-section (2B), as the case may be, the Settlement Commission may direct that the amount of wealth-tax remaining unpaid, together with any interest payable thereon under sub-section (2C), be recovered and any penalty for default in making payment of such additional amount of wealth-tax may be imposed and recovered, in accordance with the provisions of Chapter VII, by the Wealth-tax Officer having jurisdiction over the assessee.”;

(b) in sub-section (6), for the words “tax, penalty or interest”, the words “tax or penalty” shall be substituted;

(c) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6A) Where any tax payable in pursuance of an order under sub-section (4) is not paid by the assessee within thirty-five days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such tax or has allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at fifteen per cent. per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days aforesaid.”;

(d) after sub-section (7), the following sub-section shall be inserted, namely:—

“(8) For the removal of doubts, it is hereby declared that nothing contained in section 17A shall apply to any order passed under sub-section (4) or to any order of assessment or re-assessment required to be made by the Wealth-tax Officer in pursuance of any directions contained in such order passed by the Settlement Commission.”.

Amend-  
ment of  
section  
22H.

63. In section 22H of the Wealth-tax Act, in sub-section (1), for the words “and also from the imposition of any penalty”, the words and brackets “and also (either wholly or in part) from the imposition of any penalty” shall be substituted with effect from the 1st day of October, 1984.

Amend-  
ment of  
section  
22M.

64. In section 22M of the Wealth-tax Act, in sub-section (1), after the words “on withdrawing such appeal from the Appellate Tribunal”, the words, figures and letters “before the 1st day of October, 1984” shall be inserted with effect from the 1st day of October, 1984.

Amend-  
ment of  
section  
25.

65. In section 25 of the Wealth-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (2), the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by a Wealth-tax Officer shall include an order passed by an Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of a Wealth-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 8A or under sub-section (1) of section 8AA.”;

(b) in sub-section (3), for the words “from the date of the order sought to be revised”, the words “from the end of the financial year in which the order sought to be revised was passed” shall be substituted.

Amend-  
ment of  
section  
31.

66. In section 31 of the Wealth-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (2), for the words “twelve per cent.”, the words “fifteen per cent.” shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Notwithstanding anything contained in sub-section (2), the Board may reduce or waive the amount of interest payable by an assessee under the said sub-section if, on the recommendation made by the Commissioner in this behalf, it is satisfied that—

(i) payment of such amount would cause genuine hardship to the assessee;

(ii) default in the payment of the amount on which interest was payable under the said sub-section was due to circumstances beyond the control of the assessee, and

(iii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.”.

**67.** In section 34A of the Wealth-tax Act, for the words “twelve per cent.”, the words “fifteen per cent.” shall be substituted with effect from the 1st day of October, 1984.

Amendment of section 34A.

**68.** After section 34AC of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of October, 1984, namely:—

Insertion of new section 34ACC.

“34ACC. Where any person who is registered as a valuer under section 34AB or who has made an application for registration as a valuer under that section is, at any time thereafter,—

Furnishing of particulars in certain cases.

(a) convicted of any offence and sentenced to a term of imprisonment; or

(b) in a case where he is a member of any association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of architecture, accountancy, or company secretaries or such other profession as the Board may specify in this behalf by notification in the Official Gazette, found guilty of misconduct in his professional capacity, by such association or institution,

he shall immediately after such conviction or, as the case may be, finding, intimate the particulars thereof to the Board.”.

**69.** In section 35 of the Wealth-tax Act, in sub-section (7), with effect from the 1st day of October, 1984,—

Amendment of section 35

(i) in clause (a), for the words “from the date of the order passed in the first appeal or revision”, the words “from the end of the financial year in which the order was passed in the first appeal or revision” shall be substituted;

(ii) in clause (b), for the words “from the date of the order sought to be amended”, the words “from the end of the financial year in which the order sought to be amended was passed” shall be substituted

**70.** After section 35E of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of October 1984, namely:—

Insertion of new section 35FE.

“35EE. If a person referred to in section 34ACC fails, without reasonable cause or excuse, to intimate to the Board the particulars of conviction or finding referred to in the said section, he shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine.”

Failure to furnish particulars under section 34ACC

## CHAPTER IV

## AMENDMENTS TO THE GIFT-TAX ACT, 1958

18 of 1958.

Amend-  
ment of  
section 2.

71. In section 2 of the Gift-tax Act, 1958 (hereafter in this Chapter referred to as the Gift-tax Act), in clause (va), the words "not involving the carrying on of any activity for profit" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1984.

Amend-  
ment of  
section 5.

72. In section 5 of the Gift-tax Act, in sub-section (1), after clause (xv), the following clause shall be inserted, namely:—

"(xvi) to any other person, up to a maximum of rupees five hundred in value in one previous year."

Substitu-  
tion of  
new sec-  
tion for  
section 7A.

73. In the Gift-tax Act, for section 7A, the following section shall be substituted with effect from the 1st day of October, 1984, namely:—

Powers  
of Commis-  
sioner  
respecting  
specified  
areas,  
cases,  
persons,  
etc.

"7A. (1) The Commissioner may, by general or special order in writing, direct that—

(a) the powers conferred on the Gift-tax Officer by or under this Act shall, in respect of any specified case or class of cases or of any specified person or class of persons, be exercised by the Inspecting Assistant Commissioner;

(b) such of the functions assigned to the Gift-tax Officer by or under this Act, as are specified in any such order may, in respect of any specified area or specified cases or classes of cases or specified persons or classes of persons, be performed by an Inspector of Gift-tax or any member of the ministerial staff appointed to work under the Commissioner or any other gift-tax authority subordinate to him, and specified in such order, subject to such conditions, restrictions or limitations as may be specified therein:

Provided that the Commissioner shall not, unless he is authorised in this behalf by the Board by general or special order in writing, make an order under clause (b) in relation to the functions of a Gift-tax Officer mentioned in the following provisions of this Act, namely, sections 15, 16, 17, 19A, 20, 21, 21A, 23, 32, 33 and 36.

(2) For the purposes of any case or person or proceeding under this Act in respect of which or whom an order under sub-section (1) applies,—

(a) where such order is made under clause (a) of the said sub-section, references in this Act or in any rule made thereunder to the Gift-tax Officer shall be deemed to be references to the Inspecting Assistant Commissioner and any provision of this Act requiring approval or sanction of the Inspecting Assistant Commissioner shall not apply;

(b) where such order is made under clause (b) of the said sub-section, references in this Act or in any rule made thereunder to the Gift-tax Officer shall be deemed to include references to the Inspector of Gift-tax or the member of the ministerial staff specified in such order."

Amend-  
ment of  
section  
24.

74. In section 24 of the Gift-tax Act, with effect from the 1st day of October, 1984,—

(a) In sub-section (2), the following *Explanation* shall be inserted at the end, namely:—



*“Explanation.—*For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by a Gift-tax Officer shall include an order passed by an Inspecting Assistant Commissioner in exercise of the power, or in performance of the functions of a Gift-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 7A or under sub-section (1) of section 7AA.”;

(b) in sub-section (3), for the words “from the date of the order sought to be revised”, the words “from the end of the financial year in which the order sought to be revised was passed” shall be substituted.

75. In sections 32 and 33A of the Gift-tax Act, for the words “twelve per cent.”, the words “fifteen per cent.” shall be substituted with effect from the 1st day of October, 1984.

Amend-  
ment of  
sections  
32 and  
33 A.

76. In section 34 of the Gift-tax Act, in sub-section (7), for the words “from the date of the order sought to be amended”, the words “from the end of the financial year in which the order sought to be amended was passed” shall be substituted with effect from the 1st day of October, 1984.

Amend-  
ment of  
section  
34.

#### CHAPTER V

##### AMENDMENTS TO THE COMPANIES (PROFITS) SURTAX ACT, 1964

7 of 1964.

77. In sections 7B to 7D of the Companies (Profits) Surtax Act, 1964 [hereafter in this Chapter referred to as the Companies (Profits) Surtax Act], for the words “twelve per cent.”, wherever they occur, the words “fifteen per cent.” shall be substituted with effect from the 1st day of October, 1984.

Amend-  
ment of  
sections  
7 B  
to 7D.

78. In section 13 of the Companies (Profits) Surtax Act, in sub-section (1), for the words “within four years of the date on which such order was passed”, the words “within four years from the end of the financial year in which such order was passed” shall be substituted with effect from the 1st day of October, 1984.

Amend-  
ment of  
section  
13.

79. In section 14 of the Companies (Profits) Surtax Act, for the words “from the date of the order passed under the aforesaid sections of the Income-tax Act”, the words “from the end of the financial year in which the order under the aforesaid sections of the Income-tax Act was passed” shall be substituted with effect from the 1st day of October, 1984.

Amend-  
ment of  
section  
14.

80. In section 16 of the Companies (Profits) Surtax Act, with effect from the 1st day of October, 1984,—

Amend-  
ment of  
section  
16.

(a) in sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

*“Explanation.—*For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by the Income-tax Officer shall include an order passed by the Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of an Income-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 125 or under sub-section (1) of section 125A of the Income-tax Act as applied by section 13 of this Act”;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed”

## CHAPTER VI

AMENDMENT TO THE COMPULSORY DEPOSIT SCHEME (INCOME-TAX PAYERS)  
ACT, 1974.Amend-  
ment of  
section  
13.

81. In section 13 of the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974, in sub-section (1), for the words "within four years of the date on which such order was passed", the words "within four years from the end of the financial year in which such order was passed" shall be substituted with effect from the 1st day of October, 1984.

38 of 1974.

## CHAPTER VII

## AMENDMENTS TO THE INTEREST-TAX ACT, 1974

Amend-  
ment of  
section  
17.

82. In section 17 of the Interest-tax Act, 1974 (hereafter in this Chapter referred to as the Interest-tax Act), in sub-section (1), for the words "within four years of the date on which such order was passed", the words "within four years from the end of the financial year in which such order was passed" shall be substituted with effect from the 1st day of October, 1984.

45 of 1974.

Amend-  
ment of  
section  
19.

83. In section 19 of the Interest-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

*"Explanation.*—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by the Income-tax Officer shall include an order passed by the Inspecting Assistant Commissioner in exercise of the powers of an Income-tax Officer conferred on him under clause (a) of sub-section (1) of section 125 of the Income-tax Act as applied by section 21 of this Act."

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

*"(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed."*

## CHAPTER VIII

## MISCELLANEOUS

Appli-  
cability  
of revised  
rate of  
interest.

84. For the removal of doubts, it is hereby declared that where interest is payable under—

(a) any provision of the Income-tax Act, 1961 referred to in section 24 of this Act; or

43 of 1961.

(b) section 31 or section 34A of the Wealth-tax Act, 1957; or

27 of 1957.

(c) section 32 or section 33A of the Gift-tax Act, 1958; or

18 of 1958.

(d) sections 7B to 7D and section 18 of the Companies (Profits) Surtax Act, 1964; or

7 of 1964.

(e) section 21 of the Interest-tax Act, 1974,

45 of 1974.

in respect of any period commencing on or before the 30th day of September, 1984 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of fifteen per cent. per annum.

## STATEMENT OF OBJECTS AND REASONS

The Bill proposes to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958, the Companies (Profits) Surtax Act, 1964, the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974 and the Interest-tax Act, 1974. A number of proposals relating to the amendments to these enactments have been formulated on the basis of the recommendations made by the Economic Administration Reforms Commission, the Direct Tax Laws Committee, the Public Accounts Committee and the Committee on Subordinate Legislation. Some of the other amendments have been sponsored on the basis of suggestions received from various other quarters. Difficulties arising in the operation of some of the provisions of these enactments have also been taken into account in formulating these proposals.

2. These amendments are intended mainly to streamline procedures in the interest of better work management, avoid inconvenience to taxpayers, reduce litigation, remove certain anomalies in, and rationalise some of the provisions of, these enactments and counteract tax avoidance and tax evasion.

3. The notes on clauses, appended to the Bill, explain the various provisions thereof.

NEW DELHI;

PRANAB MUKHERJEE.

*The 7th August, 1984.*

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PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274  
OF THE CONSTITUTION OF INDIA

[Copy of letter No. 133(94)/84-TPL, dated the 9th August, 1984 from Shri Pranab Kumar Mukherjee, Minister of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958, the Companies (Profits) Surtax Act, 1964, the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974 and the Interest-tax Act, 1974, has recommended under article 117(1) and article 274(1) of the Constitution of India, the introduction of the Bill in Lok Sabha.

*Notes on clauses*

Clause 2 seeks to amend clause (47) of section 2 of the Income-tax Act.

Under the existing provisions, the term "transfer", in relation to a capital asset, has been defined to include the sale, exchange or relinquishment of the asset; or the extinguishment of any rights therein; or the compulsory acquisition of the asset under any law.

The proposed amendment seeks to enlarge the definition of "transfer" to provide that, in a case where a capital asset is converted by the owner thereof into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment of the capital asset shall also be regarded as a "transfer" of the asset.

This amendment will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

Clause 3 seeks to insert a new clause (d) in the *Explanation* to clause (i) of sub-section (1) of section 9 of the Income-tax Act.

Under section 9(1)(i) of the Act, all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India, or through the transfer of a capital asset situate in India, is deemed to accrue or arise in India.

The proposed amendment seeks to provide that, in the case of a non-resident, no income shall be deemed to accrue or arise in India to a person through or from operations which are confined to the shooting of any cinematograph film in India, if such non-resident is either an individual, who is not a citizen of India, or a firm which does not have any partner who is a citizen of India or who is resident in India or a company which does not have any shareholder who is a citizen of India or is resident in India.

The proposed amendment will take effect retrospectively from 1st April, 1982 and will, accordingly, apply in relation to the assessment year 1982-83 and subsequent years.

Clause 4 seeks to amend section 10 of the Income-tax Act relating to incomes not included in total income.

*Sub-clause (a)* seeks to insert a new clause (5A) in section 10.

Under the proposed amendment, any remuneration received by an individual who is not a citizen of India and is a non-resident, who comes to India solely in connection with the shooting of a cinematograph film in India by a person referred to in clause (d) of the *Explanation* to clause (i) of sub-section (1) of section 9 of the Income-tax Act (proposed to be inserted by clause 3 of the Bill) shall not be included in computing the total income of such indi-

vidual in cases where such remuneration is received by him for rendering any service in connection with such shooting.

The proposed amendment will take effect retrospectively from 1st April, 1982 and will, accordingly, apply in relation to the assessment year 1982-83 and subsequent years.

*Sub-clause (b)* seeks to amend clause (10AA) of section 10.

Under the existing provisions, any payment received by an employee of the Central Government or a State Government as cash equivalent of the leave salary in respect of the period of earned leave at his credit at the time of his retirement on superannuation or otherwise is not to be included in the computation of the total income of such individual. Any payment of this nature received by other employees is also not included in the computation of their total income, subject to an overall ceiling of Rs. 30,000. The proposed amendment seeks to secure that exemption under this provision will be allowed in respect of cash equivalent of leave salary in respect of the period of earned leave at the employee's credit only at the time of retirement, whether such retirement is on superannuation or otherwise.

The proposed amendment will take effect retrospectively from 1st April, 1978, that is, the date from which section 10(10AA) was inserted in the Income-tax Act, and will, accordingly, apply in relation to the assessment year 1978-79 and subsequent years.

*Sub-clause (c)* seeks to insert an *Explanation* to clause (13A) of section 10.

Under the existing provisions, any special allowance granted to an assessee by his employer to meet expenditure actually incurred on payment of rent in respect of residential accommodation occupied by the assessee is not to be included in the computation of the total income of the assessee, subject to certain limits and an overall monetary ceiling of Rs. 400 per month.

The proposed amendment seeks to insert an *Explanation* to section 10(13A) of the Act to clarify, for the removal of doubts, that the exemption under clause (13A) of section 10 shall not apply in a case where the residential accommodation occupied by the assessee is owned by him or the assessee has not actually incurred expenditure on payment of rent in respect of the residential accommodation occupied by him.

The proposed amendment will take effect retrospectively from 1st April, 1976 and will, accordingly, apply in relation to the assessment year 1976-77 and subsequent years.

*Clause 5* seeks to amend clause (b) of sub-section (3) of section 13 of the Income-tax Act.

Under the existing provisions, any person whose total contribution to a trust or institution up to the end of the relevant previous year exceeds five thousand rupees is regarded as a person who has made a substantial contribution to the trust or institution.

The proposed amendment seeks to raise the aforesaid limit of five thousand rupees to twenty-five thousand rupees.

The proposed amendment will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.



*Clause 6* seeks to amend section 16 of the Income-tax Act relating to deductions from salaries.

The proposed amendment seeks to insert an *Explanation* to clause (i) of section 16 to clarify, for the removal of doubts, that where, in the case of an assessee, salary is due from, or paid or allowed by, more than one employer, the standard deduction admissible under the said clause (i) shall be computed with reference to the aggregate amount of salary due, paid or allowed to the assessee and such deduction shall in no case exceed the monetary ceiling specified in that clause.

This amendment will take effect retrospectively from 1st April, 1975 and will, accordingly, apply in relation to the assessment year 1975-76 and subsequent years.

*Clause 7* seeks to amend section 17 of the Income-tax Act which defines the terms 'salary', 'perquisite' and 'profits in lieu of salary'.

*Sub-clause (i)* seeks to insert a new sub-clause (va) in clause (1) of section 17 to provide that any payment received by an employee in respect of any period of leave not availed of by him shall be regarded as 'salary' chargeable to tax. As the cash equivalent of leave salary in respect of the earned leave at the credit of an employee at the time of his retirement is exempt from income-tax under clause (10AA) of section 10 of the Income-tax Act, the effect of the proposed new sub-clause (va) read with clause (10AA) of section 10 will be that payments received by an employee in respect of any period of leave not availed of by him would be chargeable to tax, except where such payments are made on retirement and qualify for exemption under section 10(10AA) of the Act.

The proposed amendment will take effect from 1st April, 1978, that is, the date from which clause (10AA) was inserted in section 10 of the Income-tax Act by the Finance Act, 1982 and will, accordingly, apply in relation to the assessment year 1978-79 and subsequent years.

*Sub-clause (ii)(c)* seeks to insert a new sub-clause (vi) in clause (2) of section 17 to provide that where the employer has advanced any loan to an employee for building a house or purchasing a site or a house and a site or for purchasing a motor-car, and either no interest is charged by the employer on such loan or interest is charged at a rate which is lower than the rate of interest which the Central Government may specify in this behalf by notification in the Official Gazette, an amount calculated on the following basis shall be regarded as 'perquisite' received by the employee and charged to tax accordingly:—

(a) in a case where such loan is advanced without charging any interest, the amount of interest (calculated in the prescribed manner) on such loan at the rate so notified;

(b) in a case where such loan is advanced by charging interest at a rate which is lower than the rate so notified, the amount of the difference between the interest (calculated in the prescribed manner) on such loan at the rate so notified and the interest charged by the employer.

In notifying the rate of interest for the purposes of this provision, the Central Government shall have regard to the rate of interest charged by it from its employees on loans for similar purposes granted to them.

The proposed new provision will not apply to employees of the Central Government or any State Government or an employee (not being a director of a company or a person who has a substantial interest in the company) whose income under the head 'Salaries', exclusive of the value of all benefits or amenities not provided for by way of monetary payment, does not exceed Rs. 18,000.

Amendments under sub-clauses (ii) (a) and (b) are consequential to the insertion of new sub-clause (vi) by the amendment under sub-clause (ii) (c).

The aforesaid amendments take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

Clause 8 seeks to amend section 23 of the Income-tax Act relating to determination of annual value of house property.

Under the existing provisions contained in the first proviso to sub-section (1) of section 23, taxes levied by a local authority in respect of a house property which is in the occupation of a tenant are allowed as deduction in determining the annual value of the property to the extent such taxes are borne by the owner. Sub-clause (a) seeks to substitute this proviso by a new proviso. Under the new proviso, a deduction in respect of such taxes shall be allowed in determining the annual value of the property of only that year in which such taxes are actually paid by the owner.

Sub-clause (c) seeks to insert a new *Explanation* to clarify that where a deduction in respect of taxes referred to in the first proviso to sub-section (1) of section 23 has been allowed in determining the annual value of the property of any accounting year relevant to the assessment year 1984-85 or an earlier assessment year, a deduction in respect of such taxes shall not be allowed again in determining the annual value of the property of the accounting year in which such taxes are actually paid by the owner.

These amendments will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

The second proviso to sub-section (1) of section 23 provides a deduction from the annual value of residential units forming part of newly constructed buildings let out on rent. The deduction under this provision is subject to the restriction that the income in respect of such residential units shall in no case be a loss. The amendment under sub-clause (b) seeks to delete this restriction.

The aforesaid amendment will take effect from 1st April, 1984, and will, accordingly, apply in relation to the assessment year 1984-85 and subsequent years.

Clause 9 seeks to insert a new section 25A in the Income-tax Act containing a special provision for cases where unrealised rent allowed as deduction is realised subsequently.

Under the existing provisions, the rent from a house property let to a tenant which the assessee cannot realise, is allowed as deduction under section 24(1) (x) of the Act in computing the income from the property. There is, however, no provision in the Act for charging income-tax in cases where the amount which has been allowed as deduction is subsequently recovered by the assessee.

The proposed new section provides that where a deduction has been allowed under section 24(1) (x) of the Act in respect of such unrealised rent and subsequently during any accounting year the assessee has realised any amount in respect of such rent, the amount so realised shall be chargeable under the head "Income from house property" and accordingly charged to tax (without making any deduction under section 23 or section 24 of the Act) as the income of that year, irrespective of whether the assessee is the owner of that property in that year or not.

The new section will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

Clause 10 seeks to amend section 40 of the Income-tax Act relating to amounts not deductible in computing "Profits and gains of business or profession".

Section 40(b) of the Income-tax Act provides that in the case of a firm, any payment of interest, salary, bonus, commission or remuneration made by the firm to any partner of the firm shall not be allowed as deduction in computing the income of the firm chargeable under the head "Profits and gains of business or profession".

This clause seeks to insert three new *Explanations* to section 40(b) of the Act. *Explanation 1* seeks to provide that where interest is paid by a firm to a partner who has also paid interest to the firm, the amount of interest to be disallowed under section 40(b) of the Act shall be limited to the net amount of interest paid by the firm to the partner, that is, the amount by which the payment of interest by the firm to the partner exceeds the payment of interest by the partner to the firm.

*Explanation 2* seeks to provide that where an individual is a partner in a firm on behalf, or for the benefit, of any other person, interest paid by the firm to such individual or by such individual to the firm, otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of section 40(b) of the Act. It is also being provided that, in such cases, interest paid by the firm to such individual or by such individual to the firm as partner in a representative capacity and interest paid by the firm to the person so represented or by such person to the firm shall be taken into account for the purposes of section 40(b) of the Act.

*Explanation 3* seeks to provide that where an individual is a partner in a firm, otherwise than in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of section 40(b), if such interest is received by him, on behalf, or for the benefit, of any other person.

The proposed amendments will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

Clause 11 seeks to amend section 40A of the Income-tax Act relating to expenses or payments not deductible in certain circumstances.

Section 40A(5) of the Income-tax Act places certain ceiling limits on the deductible amount of expenditure incurred by an assessee in respect of payment of salary to any employee or a former employee or in providing any perquisite, etc., to such employee. *Explanation 2* to sub-section (5) of section 40A defines the expressions "salary" and "perquisite" for the purposes of the aforesaid provision.

*Sub-clause (c)* of this clause seeks to amend the aforesaid *Explanation* by inserting a new sub-clause (vi) in clause (b) of the said *Explanation*. The

insertion of this sub-clause is consequential to the insertion of sub-clause (vi) in clause (2) of section 17 of the Income-tax Act by clause 7(ii)(c) of the Bill. The effect of the new sub-clause will be that the amount of interest referred to in item (a) or item (b), as the case may be, of sub-clause (vi) of section 17(2) of the Income-tax Act shall be regarded as a perquisite provided by the assessee to his employee for the purposes of section 40A(5) of the Act.

The amendments under sub-clause (a) and sub-clause (b) are consequential to the amendment under sub-clause (c).

The proposed amendments will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

Clause 12 seeks to amend section 45 of the Income-tax Act relating to capital gains.

Under the existing provisions, profits or gains arising from the transfer of a capital asset effected in the previous year are chargeable to income-tax under the head "Capital gains" and deemed to be the income of the previous year in which the transfer took place.

The proposed amendment seeks to insert a new sub-section (2) in section 45. The new sub-section provides that the profits or gains arising from the transfer by way of conversion by the owner of a capital asset into, or its treatment by him as, stock-in-trade of a business carried on by him, shall be charged to tax under the head "Capital gains" in the year in which such stock-in-trade is sold or otherwise transferred by him. The new sub-section further provides that, for the purposes of computing the capital gain in such cases, the fair market value of the capital asset on the date on which it was converted or treated as stock-in-trade shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

The amendment will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

Clause 13 seeks to insert a new section 47A in the Income-tax Act relating to withdrawal of exemption from capital gains in certain cases.

Under clause (iv) of section 47 of the Income-tax Act, capital gain arising from the transfer of a capital asset by a company to its wholly-owned subsidiary company is exempted from tax. Similarly, under clause (v) of section 47, capital gain arising from the transfer of a capital asset by the subsidiary company to the holding company is also exempt from tax. Exemption under these provisions is allowed only if the transferee company is an Indian company.

The proposed new section seeks to provide that, if at any time before the expiry of eight years from the date of transfer of a capital asset referred to in section 47(iv) or (v), such capital asset is converted by the transferee company into, or is treated by it as, stock-in-trade of its business; or the parent company (or its nominee) or, as the case may be, the holding company ceases to hold the whole of the share capital of the subsidiary company before the expiry of the period of eight years aforesaid, the amount of capital gain exempted from tax by virtue of the provisions contained in section 47 of the Act shall be deemed to be income of the transferor company chargeable under the head "Capital gains" of the year in which such transfer took place.

The provisions of the new section will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

*Clause 14* seeks to amend section 49 of the Income-tax Act relating to cost of capital assets with reference to certain modes of acquisition.

The proposed amendment seeks to insert a new sub-section (3) in section 49 of the Act. The new sub-section provides that in a case where the capital gain arising from the transfer of a capital asset referred to in section 47(iv) or (v) of the Act is deemed, by virtue of the provisions in new section 47A (proposed to be inserted in the Income-tax Act by clause 13 of the Bill), to be income chargeable under the head "Capital gains", the cost of acquisition of such asset to the transferee company shall be the cost for which such asset was acquired by it.

The amendment will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

*Clause 15* seeks to substitute section 53 of the Income-tax Act relating to capital gains exempt from tax by a new section.

Under the existing provisions, capital gains arising from the transfer of any capital asset, being buildings or land appurtenant thereto, the income from which is chargeable under the head "Income from house property" is exempt from tax in cases where the consideration for the transfer does not exceed Rs. 25,000 and the aggregate of the fair market values of all such capital assets owned by the taxpayer immediately before the transfer does not exceed Rs. 50,000.

Under the substituted section 53, long-term capital gain arising from the transfer of a residential house will be exempt from tax in cases where the consideration received or accruing as a result of the transfer does not exceed Rs. 2 lakhs. In cases where such consideration exceeds Rs. 2 lakhs, the capital gain would be exempted proportionately. In other words, the amount of capital gain to be exempted under the proposed provision would bear the same proportion to the amount of capital gain arising from the transfer as the amount of Rs. 2 lakhs bears to the amount of the consideration received or accruing from the transfer. The exemption under the substituted section 53 will not be available if the assessee owns any other residential house on the date of such transfer.

This amendment will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

*Clause 16* seeks to amend section 54E of the Income-tax Act relating to capital gain on transfer of capital assets not to be charged in certain cases.

The proposed amendment seeks to insert a new proviso to sub-section (1) of section 54E of the Act. The new proviso seeks to make a provision to the effect that where a capital asset is compulsorily acquired under any law and the full amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period of six months referred to in that section for investment of the net consideration in notified financial assets for purposes of exemption of capital gains arising from the transfer of any capital asset, shall be reckoned from the date immediately following the date on which such compensation is received by the assessee.



The amendment will take effect from 1st April, 1984 and will, accordingly, apply in relation to the assessment year 1984-85 and subsequent years.

*Clause 17* seeks to amend section 64 of the Income-tax Act relating to income of individual to include income of spouse, minor child, etc.

The proposed amendment seeks to insert a new clause (viii) in sub-section (1) of section 64 of the Act. The effect of the new clause will be that any income arising, directly or indirectly, to any person or association of persons from assets transferred directly or indirectly on or after 1st June, 1973, otherwise than for adequate consideration, to the person or association of persons by such individual shall, to the extent to which the income from such assets is for the immediate or deferred benefit of his son's wife, or son's minor child, or both, be included in computing the total income of such individual.

This amendment will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

*Clause 18* seeks to amend section 80 of the Income-tax Act relating to submission of return for losses.

Under the existing provisions of section 80 of the Act, no loss is allowed to be carried forward and set off under section 72(1) or section 73(2) or section 74(1) or section 74A(3) unless such loss has been determined in pursuance of a return filed under section 139.

The proposed amendment seeks to provide that such loss shall not be allowed to be carried forward and set-off unless such loss is determined in pursuance of a return filed within the time allowed under sub-section (1) of section 139 for furnishing a voluntary return of income or within such further time as may be allowed by the Income-tax Officer.

The proposed amendment will take effect from 1st April, 1985, and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

*Clause 19* seeks to amend sub-section (2) of section 80C of the Income-tax Act relating to deduction in respect of life insurance premia, contributions to provident fund, etc.

*Sub-clause (i)* seeks to amend clause (g) of sub-section (2) of the said section.

Under the existing provisions, an association of persons or a body of individuals consisting only of husband and wife governed by the system of community of property in force in the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu is entitled to deduction under section 80C in respect of certain categories of long-term savings made by such association or body out of its taxable income.

The proposed amendment seeks to clarify that the deduction under the aforesaid provision is to be allowed only in the case of such associations of persons as consist of husband and wife governed by the system of community of property in force in the Union territories referred to above and not in the case of associations of persons generally.

The proposed amendment will take effect retrospectively from 1st April, 1971, that is, from the date from which the aforesaid clause (g) was inserted in section 80C(2) of the Act and will, accordingly, apply in relation to the assessment year 1971-72 and subsequent years.

*Sub-clause (u)* seeks to amend clause (h) of sub-section (2) of the said section.

Under the existing provisions, an individual or a Hindu undivided family or an association of persons or a body of individuals consisting only of husband and wife governed by the system of community of property in force in the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu is entitled to deduction under section 80C in respect of any sums paid out of his or its income chargeable to tax, as subscription to any such security of the Central Government as may be specified by the Central Government by notification in the Official Gazette.

The proposed amendment also seeks to clarify that the deduction under the aforesaid provision is to be allowed only in the case of such associations of persons as consist of husband and wife governed by the system of community of property in force in the Union territories referred to above.

The proposed amendment will take effect retrospectively from 1st April, 1983, that is, from the date from which the aforesaid clause (h) was inserted in section 80C (2) of the Act and will, accordingly, apply in relation to the assessment year 1983-84 and subsequent years.

*Clause 20* seeks to amend section 80CC of the Income-tax Act relating to deduction in respect of investment in certain new shares.

Under the existing provisions, an individual, or a Hindu undivided family, or an association of persons or a body of individuals consisting only of husband and wife governed by the system of community of property in force in the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu is entitled to a deduction in respect of investment in certain new shares.

The proposed amendment seeks to clarify that a deduction under this section will be allowed only in the case of such associations of persons as consist of husband and wife governed by the system of community of property in force in the Union territories referred to above.

The proposed amendment will take effect from 1st April, 1978, that is, from the date from which section 80CC was inserted in the Income-tax Act and will, accordingly, apply in relation to the assessment year 1978-79 and subsequent years.

*Clause 21* seeks to amend section 80L of the Income-tax Act relating to deductions in respect of interest on certain securities, dividends, etc.

*Sub-clause (u)* seeks to amend clause (c) of sub-section (1) of section 80L to clarify that the deduction under the said clause will be allowed only in the case of such associations of persons as consist of husband and wife governed by the system of community of property in force in the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, and not to associations of persons generally.

The proposed amendment will take effect from 1st April, 1972, that is, from the date from which clause (c) was inserted in section 80L of the Income-tax Act and will, accordingly, apply in relation to the assessment year 1972-73 and subsequent years.

*Sub-clause (b)* seeks to insert a new sub-section (3) in section 80L to clarify that where the income referred to in that section is derived from any asset held by, or on behalf of, a firm, an association of persons or body of individuals, the deduction under that section shall not be allowed in respect of such income to a partner of the firm or a member of the association or body.

The above amendment will take effect retrospectively from 1st April, 1976.

*Clause 22* seeks to amend sub-section (2) of section 130 of the Income-tax Act relating to jurisdiction of Commissioner competent to perform any function or functions. The proposed amendment seeks to clarify that for the purposes of section 132, the Commissioner referred to in that section shall, in relation to an assessee, be the Commissioner having, for the time being, jurisdiction over the assessee. The proposed amendment is consequential to the amendment of section 132 of the Income-tax Act under sub-clause (b) of clause 23 of the Bill.

This amendment will take effect from 1st October, 1984.

*Clause 23* seeks to amend section 132 of the Income-tax Act relating to search and seizure.

*Sub-clause (a)* seeks to amend sub-section (5). The proposed amendment seeks to provide that an order under the said sub-section estimating the undisclosed income in a summary manner on the basis of the materials available, calculating the tax thereon, etc., shall be made by the Income-tax Officer within one hundred and twenty days of the seizure, as against ninety days at present.

*Sub-clause (b)* seeks to amend sub-section (11). The proposed amendment seeks to provide that an application under sub-section (11) against the order made by the Income-tax Officer under sub-section (5) shall lie to the Commissioner, instead of the notified authority as at present.

*Sub-clause (c)* seeks to insert a new sub-section (11A). The proposed amendment provides that every application under sub-section (11) which is pending immediately before 1st October, 1984 before the notified authority shall stand transferred on that day to the Commissioner, and the Commissioner may proceed with such application from the stage at which it was on that day. The applicant will, however, have the right to demand that before proceeding further with the application, he be re-heard by the Commissioner.

*Sub-clause (d)* seeks to amend sub-section (12). This amendment is consequential to the amendment under sub-clause (b).

*Sub-clause (e)* seeks to amend *Explanation 1* at the end of section 132. The amendment is consequential to the amendment under sub-clause (a).

The foregoing amendments will take effect from 1st October, 1984.

*Clause 24* seeks to amend section 132B, section 139, section 201, sections 213 to 217, section 220, section 243, section 244 and section 269K of the Income-tax Act and rule 60 of the Second Schedule to that Act. Under these amendments, the rate of interest chargeable from or payable

to assesseees or other persons under the aforesaid provisions of the Income-tax Act will be increased from 12 per cent. per annum to 15 per cent. per annum.

This amendment will take effect from 1st October, 1984.

Clause 25 seeks to amend section 139 of the Income-tax Act.

Sub-clause (a) seeks to amend sub-section (1A) of section 139.

Item (i) of this sub-clause seeks to substitute clause (b) of sub-section (1A) of section 139 by a new clause. Under the existing clause (b), a person whose salary (exclusive of the value of all benefits or amenities not provided for by way of monetary payment) does not exceed Rs. 18,000 is not required to furnish a voluntary return of income, if the other conditions laid down in that sub-section are fulfilled.

The new clause (b) provides that a person whose income chargeable under the head "Salaries" (exclusive of the value of benefits or amenities aforesaid) does not exceed Rs. 18,000 will not be required to furnish a voluntary return of income, subject to the fulfilment of the other conditions laid down in the aforesaid sub-section. As income under the head "Salaries" is computed after allowing standard deduction under section 16(i) of the Income-tax Act, the effect of the proposed amendment will be that a person whose salary (exclusive of the value of benefits and amenities aforesaid) does not exceed Rs. 24,000 will not be required to furnish a voluntary return of income, subject to the fulfilment of the other conditions contained in section 139(1A) of the Act.

Item (ii) seeks to omit the *Explanation* to sub-section (1A). This amendment is consequential to the amendment under item (i) above.

Sub-clause (b) seeks to amend sub-section (8) of section 139.

Item (i) of this clause seeks to substitute *Explanation 2* to clause (a) of the said sub-section. Under the existing *Explanation 2*, interest for late filing of, or failure to file, return of income in the case of a registered firm is calculated by treating the registered firm as an unregistered firm.

The new *Explanation 2*, which will apply to all categories of assesseees provides that where an assessment is made for the first time under section 147 of the Income-tax Act, the assessment so made shall be regarded as a regular assessment under section 143 or section 144 of the Income-tax Act. The effect of the proposed amendment, therefore, will be that—

(a) Interest under section 139(8) of the Act for delay or default in furnishing the return of income by a registered firm shall be calculated with reference to the tax payable by the firm as a registered firm and not with reference to the tax payable by it if it were assessed as an unregistered firm.

(b) Interest under section 139(8) of the Act in the case of all categories of assesseees will become payable even in the cases where an assessment for a particular year is made for the first time under section 147 of the Act.

Item (ii) seeks to substitute clause (b) of sub-section (8) of section 139. Under the existing provisions, interest payable by an assessee for delay or default in furnishing the return of income is required to be reduced in cases where the tax on which the interest was payable has been

*reduced* as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 264. The substituted clause (b) provides that where as a result of any of the orders specified in that clause, the amount of tax on which interest was payable has been *increased or reduced*, the interest shall be increased or reduced accordingly. In a case where the interest is increased, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 156 of the Act and the provisions of the Act shall apply accordingly. In a case where such interest is reduced, the excess interest paid, if any shall be refunded to the assessee.

These amendments will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

Clause 26 seeks to amend section 144B of the Income-tax Act relating to reference to Inspecting Assistant Commissioner.

Under the existing provisions, the Income-tax Officer is required to send a draft of the assessment order to the assessee in cases where the variation proposed by him to the income or loss returned by the assessee exceeds the amount fixed by the Central Board of Direct Taxes in this behalf. (The amount currently fixed by the Board is Rs. 1 lakh). If the assessee objects to any such variation, he may forward his objections to the Income-tax Officer. These objections are required to be referred by the Income-tax Officer to the Inspecting Assistant Commissioner. After going through the relevant material, the Inspecting Assistant Commissioner has to give appropriate directions for the guidance of the Income-tax Officer who is required to modify the assessment in the light of these directions.

The proposed amendment seeks to provide that this procedure will apply only in cases where the Income-tax Officer proposes to make such variation before 1st October, 1984. The effect of this amendment, therefore, will be that the procedure laid down in section 144B of the Act shall cease to apply in relation to assessments made after 30th September, 1984.

The proposed amendment will take effect from 1st October, 1984.

Clause 27 seeks to amend section 146 of the Income-tax Act relating to reopening of assessment at the instance of the assessee.

Under the existing provisions, the Income-tax Officer is empowered to cancel as *ex parte* or *best judgment* assessment made by him under section 144 if he is satisfied, on an application made by the assessee, that the assessee was prevented by sufficient cause from making the return of income or that he did not receive the specified statutory notices issued by the Income-tax Officer or that he did not have a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the said notices.

The proposed amendment seeks to provide that an application under section 146 shall lie only in cases where an *ex parte* or *best judgment* assessment under section 144 is made by the Income-tax Officer before 1st October, 1984. The effect of the proposed amendment, therefore, will be to discontinue the provisions of section 146 relating to re-opening of *ex parte* assessments made after 30th September 1984. The assessee in such cases will, however, have the right to file an appeal to the Appellate



Assistant Commissioner or, as the case may be, the Commissioner (Appeals) or to make an application for revision under section 264 of the Act to the Commissioner.

The proposed amendment will take effect from 1st October, 1984.

*Clause 28* seeks to amend section 153 of the Income-tax Act relating to time limit for completion of assessments and re-assessments.

*Sub-clause (a)* seeks to amend sub-section (1) of section 153. Item (i) of this sub-clause seeks to amend clause (c) of section 153(1) of the Act. This amendment is consequential to the insertion of a new clause (d) under item (ii).

Item (ii) seeks to insert a new clause (d) in sub-section (1) of section 153. The new clause seeks to provide that in cases where an application is made by the assessee to the Income-tax Officer under section 143(2)(a) of the Act, objecting to an assessment made by him under section 143(1), the time limit for completion of the fresh assessment to be made by the Income-tax Officer shall stand extended up to six months from the end of the month in which the application under section 143(2)(a) is made by the assessee.

*Sub-clause (b)* seeks to insert a new clause (iva) in *Explanation 1* below sub-section (3) of section 153.

The proposed amendment is consequential to the insertion of new section 158A under clause 31 of the Bill.

The proposed amendment seeks to provide that in a case where a declaration under that section is made by the assessee before the Income-tax Officer, the period (not exceeding sixty days) commencing from the date on which the declaration under section 158A is received by the Income-tax Officer and ending with the date on which an order under the said sub-section (3) is made by the Income-tax Officer, shall be excluded for the purposes of computing the period of limitation laid down in section 153 for making an assessment or re-assessment.

The aforesaid amendments will take effect from 1st October, 1984.

*Clause 29* seeks to amend section 154 of the Income-tax Act relating to rectification of mistakes.

*Sub-clause (a)* seeks to substitute sub-section (1) of section 154. Under the existing provisions, the Income-tax Officer is empowered to amend any order passed by him with a view to rectifying any mistake apparent from the record. The Appellate Assistant Commissioner, the Commissioner (Appeals) and the Commissioner are also empowered to similarly amend certain orders passed by them. Under the substituted sub-section (1), all income-tax authorities referred to in section 116 of the Income-tax Act will be empowered to amend any order passed by them under the provisions of the Act with a view to rectifying any mistake apparent from the record in such order.

*Sub-clause (b)* seeks to amend sub-section (7) of section 154. Under the existing provisions, the time-limit of four years for rectifying an order is reckoned from the date of the order sought to be amended. The proposed amendment seeks to provide that the aforesaid time limit shall be reckoned from the end of the financial year in which the order sought to be amended was passed by the concerned income-tax authority.

These amendments will take effect from 1st October, 1984.

*Clause 30* seeks to amend section 155 of the Income-tax Act relating to amendment of certain orders.

Section 155(1) of the Act provides that where in respect of any completed assessment of a partner in a firm it is found on the assessment or reassessment of the firm, or on reduction or enhancement made in the income of the firm under certain *specified sections*, that the share of the partner in the income of the firm has not been included in the assessment of the partner, or, if included, is not correct, the Income-tax Officer may amend the assessment of the partner with a view to the inclusion of the share in the assessment or the correction thereof, as the case may be. Such amendment can be made by the Income-tax Officer within a period of four years from the *date of the final order* passed in the case of the firm.

*Sub-clause (a)* seeks to amend the aforesaid sub-section (1). The amendment under item (i) of sub-clause (a) is consequential to the amendment under item (ii).

Item (ii) seeks to insert a new clause (c) in section 155(1) of the Act. The new clause seeks to include an order passed by the Settlement Commission under sub-section (4) of section 245D on the application made by a firm among the *specified sections*.

Item (iii) seeks to provide that the time limit of four years for amending the order of assessment of the partner shall be reckoned from the end of the financial year in which the final order was passed in the case of the firm, and not from the date of such order as at present.

Sub-section (2) of section 155 contains provisions similar to those contained in section 155(1) for amending the assessment of a member of an association of persons or body of individuals in consequence of the assessment or reassessment of the association or body or the enhancement or reduction in its income under certain specified sections.

*Sub-clause (b)* seeks to amend the aforesaid sub-section (2) on the lines of the amendments proposed to be made in sub-section (1) under sub-clause (a) of this clause.

*Sub-clause (c)* seeks to amend sub-section (4) to provide that the time limit of four years referred to therein for recomputation of the total income in consequence of an order under section 147 shall be reckoned from the end of the financial year in which the order under section 147 was passed, and not from the date of such order as at present.

*Sub-clause (d)* seeks to amend sub-section (7) to provide that the time limit of four years referred to therein for recomputation of the distributable income of a company and the determination of the tax payable by the company under section 104 as a result of such recomputation shall be reckoned from the end of the financial year in which the relevant order requiring such recomputation was passed, and not from the date of such order.

*Sub-clause (e)* seeks to insert a new sub-section (7B) in consequence of the insertion of new section 47A by clause 13 of the Bill. The new sub-section seeks to provide that where the profits or gains arising from the transfer of a capital asset are not charged to tax under section 45 by virtue of section 47(iv) or (v) of the Act, but such profits or gains are

deemed under new section 47A to be income chargeable under the head "Capital gains", the Income-tax Officer may, make an order of amendment at any time before the expiry of four years from the end of the previous year in which the relevant capital asset was converted into, or treated as, stock-in-trade or, as the case may be, the parent company ceased to hold the entire share capital of the subsidiary company.

*Sub-clause (f)* seeks to amend sub-section (8) to provide that the time limit of four years for amending an order of assessment for purposes of providing exemption in respect of capital gain under section 54B of the Act shall be reckoned from the end of the financial year in which the assessment was made, and not from the date of the assessment.

*Sub-clauses (g), (h), (i) and (j)* seek to amend sub-sections (9), (10), (10A) and (10C) respectively to secure that the period of four years for amending an order of assessment referred to therein shall be reckoned from the end of the financial year in which the assessment was made, instead of from the date of the assessment.

While the amendment under sub-clause (c) alone will take effect from 1st April, 1985, the other amendments will take effect from 1st October, 1984.

*Clause 31* seeks to insert a new Chapter XIVA in the Income-tax Act containing special provision for avoiding repetitive appeals.

The said Chapter inserts a new section 158A relating to procedure when assessee claims identical question of law is pending before High Court or Supreme Court.

Sub-section (1) of the new section provides that where an assessee claims that any question of law arising in his case for an assessment year which is pending before the Income-tax Officer or any appellate authority (such case being referred to as the relevant case) is identical with a question of law arising in his case for another assessment year, which is pending on a reference before the High Court or the Supreme Court or in appeal before the Supreme Court (such case being referred to as the other case), he may furnish to the Income-tax Officer or the appellate authority, as the case may be, a declaration in the prescribed form and verified in the prescribed manner that if the Income-tax Officer or the appellate authority, as the case may be, agrees to apply in the relevant case the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case in appeal before any appellate authority or for a reference before the High Court or the Supreme Court or in appeal before the Supreme Court.

Sub-section (2) of the new section provides that on receipt of a declaration as aforesaid, the appellate authority shall call for a report from the Income-tax Officer on the correctness of the claim made by the assessee. Where the Income-tax Officer makes a request to the appellate authority to give him an opportunity of being heard in the matter, the appellate authority shall allow him such an opportunity.

Sub-section (3) of the new section provides that the Income-tax Officer or the appellate authority, as the case may be, may by order in writing admit the claim of the assessee on being satisfied that the question of law arising in the relevant case is identical with the question of law in the other case or reject the claim if he is not so satisfied.

Sub-section (4) of the new section provides that where the claim is admitted, the Income-tax Officer or, as the case may be, the appellate authority, may dispose of the relevant case without awaiting the final decision on the question of law in the other case. The assessee will not be entitled to raise, in relation

to the relevant case, such question of law in appeal before any appellate authority or for a reference before the High Court or the Supreme Court or in appeal before the Supreme Court.

However, sub-section (5) of the new section provides that when the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the Income-tax Officer or the appellate authority, as the case may be, shall, if necessary, amend the order passed in the relevant case conformably to such decision.

Sub-section (6) of the new section provides that an order by the Income-tax Officer or the appellate authority under sub-section (3) shall be final and shall not be called in question in any proceeding by way of appeal, reference or revision under the Act.

In the *Explanation* to the new section, the term "appellate authority" has been defined to mean the Appellate Assistant Commissioner, the Commissioner (Appeals) and the Appellate Tribunal. The term "case" shall, in relation to an assessee, mean any proceeding under the Income-tax Act for the assessment of the total income of the assessee or for the imposition of any penalty on him.

The provisions of the new Chapter will take effect from 1st October, 1984.

*Clause 32* seeks to amend section 186 of the Income-tax Act relating to cancellation of registration of firms.

Under the existing provisions, where the registration of a firm is cancelled for any assessment year, the Income-tax Officer is required to amend the assessments of the firm and its partners for that assessment year on the footing that the firm is an unregistered firm. Sub-section (4) of section 186 provides that such amendment of the assessments of the firm and its partners can be made at any time within a period of four years from the date of the order cancelling the registration.

The proposed amendment seeks to provide that the period of four years for amending the assessments of the firm and its partners shall be reckoned from the end of the financial year in which the order cancelling the registration was passed.

The amendment will take effect from 1st October, 1984.

*Clause 33* seeks to amend section 187 of the Income-tax Act relating to change in constitution of a firm.

Sub-section (2) of section 187 provides that, for the purposes of that section, there is a change in the constitution of the firm—

(a) if one or more of the partners cease to be partners or one or more new partners are admitted, in such circumstances that one or more of the persons who were partners of the firm before the change continue as partner or partners after the change; or

(b) where all the partners continue with a change in their respective shares or in the shares of some of them.

The proposed amendment seeks to insert a proviso to sub-section (2) of section 187 to the effect that the provisions in clause (a) above shall not apply to a case where the firm is dissolved on the death of any of its partners.

The amendment will take effect retrospectively from 1st April, 1975 and will, accordingly, apply in relation to the assessment year 1975-76 and subsequent years.

*Clause 34* seeks to amend section 208 of the Income-tax Act relating to condition of liability to pay advance tax.

*Sub-clause (a)* seeks to make an amendment of a drafting nature.

*Sub-clause (b)* seeks to insert a new sub-section (3) in section 208 to provide that it shall not be necessary for an assessee referred to in clause (c) or clause (d) of section 208(2) (that is to say, an assessee other than a company, local authority or registered firm), to pay advance tax during a financial year if the amount of advance tax payable by the assessee during that financial year, as computed in accordance with the provisions of section 209 of the Act, does not exceed Rs. 1,500.

These amendments will take effect from 2nd April, 1985 and will, accordingly, apply in relation to the advance tax payable during the financial year 1985-86 and subsequent financial years.

*Clause 35* seeks to amend section 214 of the Income-tax Act relating to interest payable by Government.

*Sub-clause (a)* seeks to amend sub-section (1) of section 214 by substituting the words "assessed tax" for the words "tax determined on regular assessment". This amendment is intended to secure uniformity in the terms used in related sections, namely, sections 214, 215, 217 and 273.

*Sub-clause (b)* seeks to substitute sub-section (1A) by a new sub-section.

The existing sub-section (1A) provides that where on completion of the regular assessment, the amount on which interest was paid by the Government under sub-section (1) has been reduced, *the interest shall be reduced* accordingly and the excess, if any, paid shall be deemed to be tax payable by the assessee and the provisions of the Income-tax Act shall apply accordingly.

The new sub-section (1A) provides that where as a result of any order under the sections specified therein, the amount on which interest was payable under sub-section (1) of section 214 has been increased or reduced, *the interest payable by the Government shall be increased or reduced* accordingly. Further, it has been provided that in a case where interest payable by the Government is reduced, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest payable and requiring him to pay such amount. Such notice of demand shall be deemed to be issued under section 156 and the provisions of the Income-tax Act shall apply accordingly.

*Sub-clause (c)* seeks to insert two *Explanations* after sub-section (2) of section 214. *Explanation 1* provides that the expression "assessed tax" shall, for the purposes of section 214, have the same meaning as in section 215(5) of the Act. This *Explanation* is consequential to the amendment under sub-clause (a).

*Explanation 2* provides that an assessment made for the first time under section 147 of the Act shall be regarded as a regular assessment for the purposes of section 214.

These amendments will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.



*Clause 36* seeks to amend section 215 of the Income-tax Act relating to interest payable by assessee.

*Sub-clause (a)* seeks to substitute sub-section (3) of section 215 by a new sub-section.

The existing sub-section (3) provides that where as a result of an order under any of the specified sections, the amount on which interest was payable by the assessee is reduced, *the interest shall be reduced accordingly* and the excess interest paid, if any, shall be refunded.

The substituted sub-section (3) provides that where as a result of an order under any of the specified sections, the amount on which interest was payable by the assessee has been increased or reduced, *the interest shall be increased or reduced accordingly*. In a case where the interest is so increased, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable by the assessee. Such notice of demand shall be deemed to be issued under section 156 of the Act and the provisions of the Act shall apply accordingly. In a case where interest is reduced, the excess interest paid, if any shall be refunded to the assessee.

*Sub-clause (b)* seeks to insert a new sub-section (6) in section 215.

The proposed sub-section provides that where in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of section 215, section 216, section 217 and section 273 of the Act.

The aforesaid amendments take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

*Clause 37* seeks to amend section 220 of the Income-tax Act relating to when tax is payable and when assessee deemed in default.

Section 220(2) of the Act provides that an assessee shall be liable to pay simple interest at 12 per cent. per annum if he fails to pay the amount specified in any notice of demand under section 156 within the period limited under sub-section (1) of section 220.

The proposed amendment seeks to insert a new sub-section (2A) in section 220 of the Act to provide that the Board may reduce or waive the amount of interest payable by an assessee under section 220(2) if, on the recommendation made by the Commissioner in this behalf, it is satisfied that payment of such interest would cause genuine hardship to the assessee; the default in the payment of the amount on which interest was payable was due to circumstances beyond the control of the assessee; and the assessee has co-operated in any inquiry relating to the assessment or in any proceeding for the recovery of any amount due from him.

The proposed amendment will take effect from 1st October, 1984.

*Clause 38* seeks to amend section 231 of the Income-tax Act relating to period for commencing recovery proceedings.

This section provides that no proceedings for the recovery of any sum payable under the Income-tax Act shall be commenced after the expiration of *one year* from the last day of the financial year in which the demand is made, or, in the case of a person who is deemed to be an assessee in default

under any provision of that Act, after the expiration of one year from the last day of the financial year in which the assessee is deemed to be in default.

The proposed amendment seeks to raise the period of limitation for commencing recovery proceedings from one year to three years.

The proposed amendment will take effect from 1st October, 1984.

*Clause 39* seeks to amend section 245A of the Income-tax Act relating to definition for the purposes of Chapter XIX-A of that Act entitled "Settlement of cases".

Under clause (a) of section 245A, the term "case" means any proceeding under the Indian Income-tax Act, 1922 or under the Income-tax Act, 1961, for or in connection with the assessment or reassessment of any person in respect of any year or years which may be pending before an income-tax authority on the date on which an application for settlement is made under section 245C(1) of the Act.

The proposed amendment seeks to substitute this definition by a new definition to the effect that the term "case" shall mean any proceeding under the Income-tax Act, 1961, for the assessment or reassessment of any person in respect of any year or years, or by way of appeal or revision in connection with such assessment or reassessment, which may be pending before an income-tax authority on the date on which an application is made. The effect of the new definition will be that it will not be permissible for assessee to make an application for settlement to the Settlement Commission in relation to any assessment or reassessment made under the Indian Income-tax Act, 1922. The amended definition also seeks to clarify that an application for settlement shall lie only when any proceeding for assessment or reassessment in respect of any year or years is pending before an income-tax authority or an appeal or revision in connection with such assessment or reassessment is pending before such authority.

The amendment will take effect from 1st October, 1984.

*Clause 40* seeks to amend section 245C of the Income-tax Act relating to application for settlement of cases.

The proposed amendment seeks to substitute sub-section (1) by new sub-sections (1), (1A), (1B), (1C), (1D) and (1E) in section 245C.

The substituted sub-section (1), seeks to secure that an application for settlement shall contain, *inter alia*, a full and true disclosure of the applicant's income which has not been disclosed before the Income-tax Officer, the manner in which such income has been derived and the additional amount of income-tax payable on such income. It also seeks to provide that no application for settlement of a case shall be made unless the additional amount of income-tax payable on the income disclosed in the application exceeds fifty thousand rupees.

New sub-section (1A) provides that the additional amount of income-tax payable in respect of the income disclosed in an application for settlement shall be calculated in accordance with the provisions of sub-section (1B) to (1D).

New sub-section (1E) provides that where any books of account other documents, money, bullion, jewellery, etc., belonging to an assessee are seized under section 132, the assessee shall not be entitled to make an application for settlement before the expiry of one hundred and twenty days from the date of the search.

These provisions take effect from 1st October, 1984.

*Clause 41* seeks to amend section 245D of the Income-tax Act relating to procedure on receipt of an application under section 245C.

*Sub-clause (a)* seeks to omit the reference to the Indian Income-tax Act, 1922 contained in sub-section (1A). This amendment is consequential to the amendment under clause 39 of the Bill.

*Sub-clause (b)* seeks to insert four new sub-sections (2A), (2B), (2C) and (2D).

The new sub-section (2A) provides that the assessee shall, within 35 days of the receipt of a copy of the order under sub-section (1), pay the additional amount of income-tax payable on the income disclosed in the application and shall furnish proof of such payment to the Settlement Commission.

The new sub-section (2B) provides that if the Settlement Commission is satisfied on an application made in this behalf by the assessee, that he is unable for good and sufficient reasons to pay the additional amount of income-tax referred to in sub-section (2A) within the time specified therein, it may extend the time for payment or allow payment thereof by instalments if the assessee furnishes adequate security for the payment.

The new sub-section (2C) provides that where the additional amount of income-tax is not paid within the period specified under sub-section (2A), then, whether or not the Settlement Commission has extended the time for payment of the amount or has allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at 15 per cent. per annum on the outstanding amount from the date of the expiry of the aforesaid period of thirty five days.

The new sub-section (2D) provides that where the additional amount referred to in sub-section (2A) is not paid by the assessee within the specified time or the extended time allowed under sub-section (2B), as the case may be, the Settlement Commission may direct that the outstanding amount together with the interest payable thereon under sub-section (2C) be recovered and any penalty for default in making payment may be imposed and recovered, in accordance with the provisions of Chapter XVII by the Income-tax Officer having jurisdiction over the assessee.

*Sub-clause (c)* seeks to amend sub-section (6) to remove the discretion of the Settlement Commission regarding the terms of payment of interest by the assessee. This amendment is consequential to the provisions contained in new sub-section (6A), proposed to be inserted in section 245D under sub-clause (d) of this clause.

*Sub-clause (d)* seeks to insert a new sub-section (6A). The new sub-section (6A) provides that where the tax payable in pursuance of an order under sub-section (4) is not paid by the assessee within 35 days of the receipt of a copy of order by him, then, whether or not the Settlement Commission has allowed time for payment of such tax or allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at 15 per cent. per annum on the outstanding amount from the date of the expiry of the said period of 35 days.

*Sub-clause (e)* seeks to insert a new sub-section (8). New sub-section (8) seeks to clarify that the time limit for completion of assessments and re-assessments contained in section 153 shall have no application to any order passed under sub-section (4) or to any order of assessment reassessment or recomputation required to be made by the Income-tax Officer in

pursuance of any directions contained in an order passed by the Settlement Commission.

These amendments will take effect from 1st October, 1984.

*Clause 42* seeks to amend section 245E of the Income-tax Act relating to power of Settlement Commission to re-open completed proceedings.

Under the proviso to section 245E, no proceedings can be re-opened by the Settlement Commission under the said section after the expiry of a period of eight years from the end of the assessment year to which such proceedings relate. As the proceedings under the Indian Income-tax Act, 1922 can relate only to the assessment year 1961-62 or earlier years, the reference in the said section to assessment proceedings, under the aforesaid Act is inappropriate and unnecessary. The proposed amendment accordingly seeks to omit the reference to proceedings under the said Act.

The amendment will take effect from 1st October, 1984.

*Clause 43* seeks to amend section 245H of the Income-tax Act relating to power of Settlement Commission to grant immunity from prosecution and penalty.

The proposed amendment seeks to enable the Settlement Commission to grant partial immunity from imposition of penalty to the applicant.

The amendment will take effect from 1st October, 1984.

*Clause 44* seeks to amend section 245M of the Income-tax Act relating to certain persons who have filed appeals to the Appellate Tribunal entitled to make applications to the Settlement Commission.

Under the existing provision, any assessee who has filed an appeal to the Appellate Tribunal under the Act which is pending before it shall, on withdrawing such appeal from the Appellate Tribunal, be entitled to make an application to the Settlement Commission to have his case settled.

The proposed amendment seeks to restrict the operation of this provision to appeals withdrawn from the Appellate Tribunal prior to 1st October, 1984.

The amendment will take effect from 1st October, 1984.

*Clause 45* seeks to amend section 246 of the Income-tax Act relating to appealable orders.

*Sub-clause (a)* seeks to insert a new clause (d) in sub-section (2) of section 246 to provide that any assessee aggrieved by an order of assessment made after 30th September, 1984 on the basis of directions issued by the Inspecting Assistant Commissioner under section 144A, may appeal to the Commissioner (Appeals).

*Sub-clause (b)* seeks to insert a new clause (ff) in sub-section (2) of section 246 to provide that any assessee aggrieved by an order made by the Inspecting Assistant Commissioner under section 154 may appeal to the Commissioner (Appeals).

These amendments take effect from 1st October, 1984.

*Clause 46* seeks to amend section 253 of the Income-tax Act relating to appeals to the Appellate Tribunal.

The proposed amendment seeks to omit clause (b) of sub-section (1) of section 253 which provides for appeal to the Appellate Tribunal by an assessee aggrieved by an order of an Inspecting Assistant Commissioner under section 154. This amendment is consequential to the proposed amendment under sub-clause (b) of clause 45 of the Bill which seeks to provide an appeal to the

Commissioner (Appeals) against an order of the Inspecting Assistant Commissioner under section 154.

The amendment will take effect from 1st October, 1984.

*Clause 47* seeks to amend section 263 of the Income-tax Act relating to revision of orders prejudicial to revenue.

*Sub-clause (a)* seeks to insert an *Explanation* to sub-section (1) of section 263.

Under the existing provisions, the Commissioner is empowered to revise any order passed by the Income-tax Officer under the Income-tax Act if he considers that such order is erroneous in so far as it is prejudicial to the interests of the revenue. The *Explanation* seeks to clarify that, for the purposes of this section, an order of assessment passed by the Income-tax Officer on the basis of directions issued by the Inspecting Assistant Commissioner under section 144A or section 144B or an order passed by the Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of an Income-tax Officer conferred on or assigned to him under clause (a) of sub-section (1) of section 125 or under sub-section (1) of section 125A shall be regarded as an order passed by the Income-tax Officer.

*Sub-clause (b)* seeks to substitute sub-section (2) of section 263 by a new sub-section.

Under the existing provisions, a Commissioner is debarred from revising an order of reassessment made under section 147 of the Income-tax Act. The sub-section also provides that no order of revision can be made by the Commissioner after the expiry of two years from the date of the order sought to be revised. Under the substituted sub-section, it will be permissible for the Commissioner to revise even an order of reassessment made under section 147 of the Act. Further, the time limit of two years for the purposes of making an order under this section shall be reckoned from the end of the financial year in which the order sought to be revised was made by the assessing officer.

These amendments will take effect from 1st October, 1984.

*Clause 48* seeks to amend section 271 of the Income-tax Act relating to failure to furnish returns, comply with notices, concealment of income, etc.

The proposed amendment seeks to insert a new *Explanation 5* to sub-section (1) of section 271. The new *Explanation* provides that where, in the course of a search under section 132, the assessee is found to be the owner of any money, bullion, jewellery or other article or thing, and he claims that such assets have been acquired by him by utilising (wholly or in part) his income of—

(a) any previous year which has ended before the date of search but the return for that year has not been furnished or, such income has not been declared in any return furnished before the said date, or

(b) any previous year which ends on or after the date of the search, then, notwithstanding the fact that such income is declared by him in any return of income furnished on or after the date of the search he shall be deemed to have concealed the particulars, of his income or furnished inaccurate particulars of such income for the purposes of imposition of penalty under section 271 unless such income is, or the transactions resulting in such income are, recorded before such search in the books of accounts, if any, or such income is otherwise disclosed before such search before the Commissioner.

The proposed amendment will take effect from 1st October, 1984.

*Clause 49* seeks to amend section 273 of the Income-tax Act relating to false estimate of, or failure to pay, advance tax.



The proposed amendment seeks to insert a new *Explanation 2* to sub-section (2) to provide that where the person liable to penalty is a registered firm or an unregistered firm which has been assessed under clause (b) of section 183, then, the penalty imposable on the firm under section 273 shall be the same amount as would be imposable if the firm were an unregistered firm.

This amendment will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

*Clause 50* seeks to amend section 273A of the Income-tax Act relating to power to reduce or waive penalty, etc., in certain cases.

*sub-clause (a)* seeks to insert a new *Explanation 2* to sub-section (1) to provide that where any books of account, other documents, money, bullion, jewellery or other valuable article or thing belonging to a person are seized under section 132 and within fifteen days of such seizure, the person makes a full and true disclosure of his income to the Commissioner, such person shall, for the purposes of clause (b) of the said sub-section, be deemed to have made, prior to the detection by the Income-tax Officer of the concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, voluntarily and in good faith, a disclosure of such particulars.

*Clause (a)* of sub-section (2) of section 273A provides that if the penalty or the aggregate penalty referred to therein exceeds Rs. 50,000, no order reducing or waiving the penalty under sub-section (1) of that section shall be made by the Commissioner except with the previous approval of the Board. Sub-clause (b) seeks to raise the aforesaid ceiling of fifty thousand rupees to one hundred thousand rupees.

*Sub-clause (c)* seeks to insert a new proviso to sub-section (4) to secure that where the amount of penalty, or the aggregate amount of penalty, as the case may be, payable by the assessee under the Income-tax Act exceeds one hundred thousand rupees, an order under sub-section (4) by the Commissioner reducing or waiving the amount of such penalty or compounding any proceeding for the recovery of such amount shall be made by him only with the previous approval of the Board.

These amendments will take effect from 1st October, 1984.

*Clause 51* seeks to amend section 279 of the Income-tax Act relating to prosecution at the instance of the Commissioner.

The proposed amendment seeks to provide that a person shall not be proceeded against for an offence under section 276DD relating to failure to comply with provisions of section 269SS, except at the instance of the Commissioner.

The amendment will take effect retrospectively from 1st April, 1984, that is, from the date from which the said section 276DD was introduced in the Income-tax Act.

*Clause 52* seeks to amend section 288 of the Income-tax Act relating to appearance by authorised representative.

The proposed amendment seeks to omit sub-section (3) which provides that a person formerly employed as an income-tax authority, not below the rank of an Income-tax Officer, and who has retired or resigned from such employment after having served for not less than 3

years, shall not be entitled to represent any assessee for a period of 2 years from the date of his retirement or resignation, as the case may be.

The amendment will take effect from 1st October, 1984.

*Clause 53* seeks to amend section 4 of the Wealth-tax Act relating to net wealth to include certain assets.

The amendment under sub-clause (a) is consequential to the insertion of new sub-clause (vi) in clause (a) of sub-section (1) of section 4.

*Sub-clause (b)* seeks to insert new sub-clause (vi) in section 4(1)(a) of the Act. The new sub-clause provides that in computing the net wealth of an individual, there shall be included as belonging to him the value of assets which on the valuation date are held by a person or association of persons, to whom such assets have been transferred (on or after 1st June, 1973) by the individual (otherwise than for adequate consideration) for the immediate or deferred benefit of the son's wife or the son's minor child, of such individual or both.

The amendment will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

*Clause 54* seeks to amend section 5 of the Wealth-tax Act relating to exemptions in respect of certain assets.

*Sub-clause (a)* seeks to amend sub-section (1) of section 5.

Item (i) of sub-clause (a) seeks to insert new clause (xxviib) in sub-section (1).

New clause (xxviib) seeks to provide that, subject to the provisions of sub-section (1A), wealth-tax shall not be payable by an assessee in respect of any deposits with any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages or for both.

The proposed amendment will take effect from 1st April, 1985, and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

Item (ii) of sub-clause (a) seeks to amend clause (xxxiii) of sub-section (1).

Under the existing provisions, an assessee being a person of Indian origin who was ordinarily residing in a foreign country and who, on leaving such country, has returned to India with the intention of permanently residing in India is entitled to exemption for seven years in respect of moneys and value of assets brought by him into India and the value of the assets acquired by him out of such moneys.

The proposed amendment seeks to extend the aforesaid exemption to Indian citizens.

The proposed amendment will take effect retrospectively from 1st April, 1977, that is, from the date from which clause (xxxiii) was inserted in section 5(1) of the Wealth-tax Act, and will, accordingly, apply in relation to the assessment year 1977-78 and subsequent years.

*Sub-clause (b)* seeks to amend sub-section (1A) of section 5.

The proposed amendment seeks to secure that the exemption in respect of the deposits referred to in new clause (xxviib), proposed to be inserted in section 5(1) of the Act by sub-clause (a) (i), is subject to the monetary limit contained in sub-section (IA).

The proposed amendment will take effect from 1st April, 1985, and will, accordingly, apply in relation to the assessment year 1985-86, and subsequent years.

*Sub-clause (c)* seeks to amend sub-section (3) of section 5.

Under the existing provisions, exemption under sub-section (1) is allowed only if the relevant asset is held by the assessee for a specified period ending with the valuation date. The amendment under item (i) seeks to secure that exemption in respect of the asset referred to in new clause (xxviib) is also subject to the same condition.

Item (ii) seeks to amend the *Explanation* to sub-section (3) of section 5.

Under the existing provisions, in a case where the relevant asset referred to in the *Explanation* to sub-section (3) was acquired by the assessee by conversion of, or in exchange of, or with the proceeds of, or with money constituting, any other asset exempt under sub-section (1), the period for which such other asset is held by the assessee within the period of twelve months ending with the valuation date is included in computing the period of six months under sub-section (3), if the assessee acquired the relevant asset within thirty days after he ceased to own such other asset. The proposed amendment seeks to raise the aforesaid limit of thirty days to sixty days.

The proposed amendments will take effect from 1st April, 1985, and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

*Clause 55* seeks to substitute section 8A of the Wealth-tax Act relating to power of the Commissioner respecting specified areas, cases, persons, etc.

Under section 8A, as proposed to be substituted, the Commissioner has been empowered to direct that the powers conferred on the Wealth-tax Officer by or under the Wealth-tax Act shall, in respect of any specified case or class of cases or of any specified person or class of persons, be exercised by the Inspecting Assistant Commissioner. Under the substituted section, the Commissioner will continue to have the power to direct that such of the functions assigned to the Wealth-tax Officer, as are specified in any order made by the Commissioner shall be performed by an Inspector of Wealth-tax or any member of the ministerial staff subordinate to the Commissioner or to any other wealth-tax authority in respect of any specified area or specified case or classes of cases or any specified persons or classes of persons.

The proposed amendment further seeks to provide that where an order is passed by the Commissioner under the aforesaid provisions, references in the Wealth-tax Act or in any rule made thereunder to the Wealth-tax Officer shall be deemed to be references to the Inspecting Assistant Commissioner or to the Inspector of Wealth-tax or to the member of the ministerial staff, as the case may be.

The proposed amendment will take effect from 1st October, 1984.

*Clause 56* seeks to amend section 17A of the Wealth-tax Act relating to time limit for completion of assessment and re-assessment.

This amendment is consequential to the insertion of new section 18C in the Wealth-tax Act under clause 59 of the Bill. The amendment seeks to provide that the period (not exceeding 60 days) commencing from the date on which the Wealth-tax Officer received the declarations from the assessee

under new section 18C(1) and ending with the date on which an order under sub-section (3) of that section is passed by him shall be excluded in computing the period of limitation for the completion of the assessment or reassessment in the case of the assessee.

The amendment will take effect from 1st October, 1984.

*Clause 57* seeks to insert a new *Explanation 5* in section 18(1) of the Wealth-tax Act relating to penalty for failure to furnish returns, to comply with notices and concealment of assets, etc.

New *Explanation 5* seeks to provide that in a case where an assessee is found, in the course of a search under section 37A, to be the owner of any money, bullion, jewellery or other valuable article or thing and the assessee claims that such assets represent, wholly or partly, his wealth for any valuation date falling before the date of the search, but the return in respect of the net wealth on such valuation date has not been furnished before the date of the search or such assets have not been declared in any return furnished before that date or that such assets represent his wealth for any valuation date falling on or after the date of the search, then, the assessee shall be deemed, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of section 18 to have concealed the particulars of such assets or to have furnished inaccurate particulars of such assets, notwithstanding the fact that such assets are declared by the assessee in any return of net wealth furnished on or after the date of search. These provisions will not apply in a case where the relevant assets are recorded, on or before the date of search in the books of account maintained by the assessee or they are otherwise disclosed to the Commissioner before the date of search.

The proposed amendment will take effect from 1st October, 1984.

*Clause 58* seeks to insert a new *Explanation 2* in sub-section (1) of section 18B of the Wealth-tax Act relating to power to reduce or waive penalty in certain cases.

Under the existing provisions, the Commissioner may reduce or waive the amount of penalty imposed or imposable on a person under clause (iii) of sub-section (1) of section 18, if the Commissioner is satisfied that such person has, prior to the detection by the Wealth-tax Officer, of the concealment of particulars of assets or of inaccuracy of particulars furnished, voluntarily and in good faith made full and true disclosure of such particulars.

New *Explanation 2* seeks to provide that where any books of account or other documents belonging to a person are seized under section 37A and within fifteen days of such seizure the person makes a full and true disclosure of his net wealth to the Commissioner, the person shall be deemed to have made, prior to the detection by the Wealth-tax Officer of the concealment of particulars of assets or of the inaccuracy of the particulars furnished, voluntarily and in good faith, a disclosure of such particulars.

The proposed amendment will take effect from 1st October, 1984.

*Clause 59* seeks to insert a new Chapter IVA in the Wealth-tax Act entitled "Special Provision for Avoiding Repetitive Appeals".

This Chapter contains a new section 18C relating to procedure when assessee claims identical question of law is pending before High Court or Supreme Court. The provisions of the said Chapter and section are similar to the provisions of Chapter XIVA and section 158A proposed to be inserted in the Income-tax Act under clause 31 of the Bill.

The proposed amendment will take effect from 1st October, 1984.

*Clause 60* seeks to amend section 22A of the Wealth-tax Act relating to definitions.

The proposed amendment seeks to substitute the definition of "case". Under the new definition, "case" would mean any proceeding under the Wealth-tax Act for the assessment or re-assessment of any person in respect of any year or years, or by way of appeal or revision in connection with such assessment or re-assessment, which may be pending before a wealth-tax authority on the date on which an application is made under sub-section (1) of section 22C.

The amendment will take effect from 1st October, 1984.

*Clause 61* seeks to amend section 22C of the Wealth-tax Act relating to application for settlement of cases.

The proposed amendment seeks to substitute sub-section (1) by a new sub-section (1), and to insert new sub-sections (1A), (1B), (1C), (1D), and (1E) in section 22C.

The substituted sub-section (1) seeks to provide that an application for settlement shall, *inter alia* contain a full and true disclosure of the applicant's wealth which has not been disclosed before the Wealth-tax Officer, the manner in which such wealth has been derived and the additional amount of wealth-tax payable on such wealth.

New sub-section (1A) provides that the additional amount of wealth-tax payable in respect of the wealth disclosed in an application for settlement shall be calculated in accordance with the provisions of the proposed new sub-sections (1B), (1C) and (1D).

New sub-section (1E) seeks to provide that where any books of account or other documents are seized under section 37A of the Wealth-tax Act, the assessee shall not be entitled to make an application under sub-section (1) of section 22C for settlement before the expiry of 120 days from the date of such seizure.

These amendments will take effect from 1st October, 1984.

*Clause 62* seeks to amend section 22D of the Wealth-tax Act.

*Sub-clause (a)* seeks to insert new sub-sections (2A) to (2D) in section 22D.

New sub-section (2A) seeks to provide that the additional wealth-tax payable on the wealth disclosed in the application for settlement shall be paid by the applicant within thirty-five days of the receipt of a copy of the order of the Settlement Commission admitting the application.

New sub-section (2B) empowers the Settlement Commission to allow further time for payment of such tax or to allow its payment by instalments.

Sub-section (2C) provides that the assessee shall be liable to pay interest at fifteen per cent. per annum on the unpaid amount.

Sub-section (2D) provides that in case the applicant does not pay such tax within the said period of thirty-five days or within such further time as may be allowed by the Settlement Commission, the amount due, together with interest thereon, will be recovered from the applicant in accordance with the provisions of Chapter VII of the Wealth-tax Act.



*Sub-clause (b)* seeks to amend sub-section (6) of section 22D. This amendment is consequential to the amendment under sub-clause (c).

*Sub-clause (c)* seeks to insert a new sub-section (6A) in section 22D. The new sub-section provides that the assessee shall be liable to pay interest at fifteen per cent. per annum if the amount required to be paid in pursuance of the order of the Settlement Commission under sub-section (4) is not paid by the assessee within thirty-five days of the receipt of a copy of the order of the Settlement Commission.

*Sub-clause (d)* seeks to insert new sub-section (8) in section 22D. The new sub-section seeks to clarify that the time limit for completion of assessments and re-assessments will not apply in relation to an order made by the Settlement Commission under sub-section (4) or to any order of assessment or re-assessment required to be made by the Wealth-tax Officer in pursuance of any directions contained in such order.

These amendments will take effect from 1st October, 1984.

*Clause 63* seeks to amend section 22H of the Wealth-tax Act.

The proposed amendment seeks to clarify that the power of the Settlement Commission to grant immunity from imposition of any penalty will also include the power to grant partial immunity from imposition of penalty.

The amendment will take effect from 1st October, 1984.

*Clause 64* seeks to amend section 22M of the Wealth-tax Act relating to certain persons who have filed appeals to the Appellate Tribunal entitled to make applications to the Settlement Commission.

Under the existing provision, any assessee who has filed an appeal to the Appellate Tribunal which is pending before it shall, on withdrawing such appeal from the Appellate Tribunal, be entitled to make an application to the Settlement Commission to have his case settled.

The proposed amendment seeks to restrict the operation of this provision to appeals withdrawn from the Appellate Tribunal prior to 1st October, 1984.

The amendment will take effect from 1st October, 1984.

*Clause 65* seeks to amend section 25 of the Wealth-tax Act relating to powers of Commissioner to revise orders of subordinate authorities.

*Sub-clause (a)* seeks to insert an *Explanation* to sub-section (2) to clarify that for the purposes of that sub-section, an order passed by the Wealth-tax Officer shall include an order passed by an Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of a Wealth-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 8A or under sub-section (1) of section 8AA.

*Sub-clause (b)* seeks to amend sub-section (3) to provide that an order may be revised by the Commissioner under sub-section (2) within two years from the end of the financial year in which the order sought to be revised was passed, as against two years from the date of the order sought to be revised.

These amendments will take effect from 1st October, 1984.

*Clause 66* seeks to amend section 31 of the Wealth-tax Act relating to when interest payable and when assessee deemed in default.

*Sub-clause (a)* seeks to amend sub-section (2) of section 31. The proposed amendment seeks to raise the rate of interest chargeable on the demand outstanding against assesseees, from twelve per cent. to fifteen per cent. per annum.

*Sub-clause (b)* seeks to insert a new sub-section (2A) in section 31. The proposed sub-section seeks to empower the Board to reduce or waive the interest payable by assesseees under sub-section (2) of section 31. The proposed sub-section is similar to sub-section (2A) proposed to be inserted in section 220 of the Income-tax Act under clause 37 of the Bill.

These amendments will take effect from 1st October, 1984.

*Clause 67* seeks to amend section 34A of the Wealth-tax Act relating to refunds.

The proposed amendment seeks to raise the rate of interest payable by the Government on delayed refunds to fifteen per cent. per annum, as against twelve per cent. per annum at present.

The amendment will take effect from 1st October, 1984.

*Clause 68* seeks to insert a new section 34ACC in the Wealth-tax Act relating to furnishing of particulars in certain cases.

The new section seeks to provide that where any person who is registered as a valuer under section 34AB or who has made an application for registration as a valuer under that section is at any time thereafter convicted of any offence and sentenced to a term of imprisonment, or in a case where he is member of any association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of architecture, accountancy or company secretariat (or such other profession as the Board may specify in this behalf by notification in the Official Gazette), found guilty of professional misconduct by such association or institution, he shall immediately after such conviction or, as the case may be, finding, intimate the particulars thereof to the Board.

The new section will take effect from 1st October, 1984.

*Clause 69* seeks to amend section 35 of the Wealth-tax Act relating to rectification of mistakes.

The proposed amendments seek to secure that the period of four years for rectifying the orders referred to in clauses (a) and (b) of sub-section (7) of that section shall be reckoned from the end of the financial year in which the order in first appeal or revision or, as the case may be, the order sought to be rectification of mistakes.

These amendments will take effect from 1st October, 1984.

*Clause 70* seeks to insert a new section 35EE in the Wealth-tax Act relating to failure to furnish particulars under section 34ACC.

The new section seeks to provide that if a person referred to in section 34ACC fails without reasonable cause or excuse to intimate to the Board the particulars of conviction or finding referred to in that section, he shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine.

The new section will take effect from 1st October, 1984.

*Clause 71* seeks to amend section 2 of the Gift-tax Act relating to definitions.

*Clause (va)* of section 2 defines "charitable purpose" as including relief of the poor, education, medical relief, and the advancement of any other object of general public utility not involving the carrying on of any activity for profit.

The proposed amendment seeks to omit the words "not involving the carrying on of any activity for profit" from the aforesaid definition.

The amendment will take effect from 1st April, 1984

*Clause 72* seeks to amend section 5 of the Gift-tax Act. The proposed amendment seeks to provide that gifts to an individual donee up to a maximum of Rs. 500 in value in one year will be exempt from gift-tax.

The amendment will take effect from 1st April, 1985 and will, accordingly, apply in relation to the assessment year 1985-86 and subsequent years.

*Clause 73* seeks to substitute section 7A of the Gift-tax Act relating to powers of the Commissioner respecting specified areas, cases, persons, etc.

Under section 7A as proposed to be substituted, the Commissioner has been empowered to direct that the powers conferred on the Gift-tax Officer by or under the Gift-tax Act shall, in respect of any specified case or class of cases or of any specified person or class of persons be exercised by the Inspecting Assistant Commissioner. Under the substituted section, the Commissioner will continue to have the power to direct that such of the functions assigned to the Gift-tax Officer, as are specified in any order made by the Commissioner, shall be performed by an Inspector of Gift-tax or any member of the ministerial staff subordinate to the Commissioner or to any other Gift-tax authority in respect of any specified area or specified cases or classes of cases or any specified persons or classes of persons.

The proposed amendment further seeks to provide that where an order is passed by the Commissioner under the aforesaid provisions, references to the Gift-tax Officer in the Gift-tax Act or in any rule made thereunder shall be deemed to be references to the Inspecting Assistant Commissioner or to the Inspector of Gift-tax or to the member of the ministerial staff, as the case may be.

The proposed amendments will take effect from 1st October, 1984.

*Clause 74* seeks to amend section 24 of the Gift-tax Act relating to power of Commissioner to revise orders of subordinate authorities.

*Sub-clause (a)* seeks to insert an *Explanation* to sub-section (2) to clarify that for the purposes of that sub-section, an order passed by the Gift-tax Officer shall include an order passed by the Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of a Gift-tax Officer conferred on, or assigned to him under clause (a) of sub-section (1) of section 7A or under sub-section (1) of section 7AA.

*Sub-clause (b)* seeks to amend sub-section (3) of section 24 to provide that the Commissioner may revise an order under sub-section (2) within two years from the end of the financial year in which the order sought to be revised was passed, or against two years from the date of the order sought to be revised.

These amendments will take effect from 1st October, 1984.

*Clause 75* seeks to amend sections 32 and 33A of the Gift-tax Act relating to recovery of tax and penalties and mode of recovery.

The proposed amendments seek to provide that the rate of interest chargeable from or payable to assessees shall be increased from 12 per cent per annum to 15 per cent. per annum.

The above amendments will take effect from 1st October, 1984.

*Clause 76* seeks to amend section 34 of the Gift-tax Act relating to rectification of mistakes.

The proposed amendment seeks to provide that the time-limit of four years for rectifying mistakes shall be reckoned from the end of the financial year in which the order sought to be rectified was passed, and not from the date of such order as at present.

The amendment will take effect from 1st October, 1984.

*Clause 77* seeks to amend sections 7B to 7D of the Companies (Profits) Surtax Act, 1964 relating to interest payable by Government and interest payable by assessee.

The proposed amendments seek to provide that the rate of interest payable by the Government or by an assessee shall be increased from 12 per cent. per annum to 15 per cent. per annum.

These amendments will take effect from 1st October, 1984.

*Clause 78* seeks to amend section 13 of the Companies (Profits) Surtax Act relating to rectification of mistakes.

The proposed amendment seeks to provide that the time limit of four years for rectifying mistakes shall be reckoned from the end of the financial year in which the order sought to be rectified was passed, and not from the date of such order as at present.

The amendment will take effect from 1st October, 1984.

*Clause 79* seeks to amend section 14 of the Companies (Profits) Surtax Act relating to other amendments.

The proposed amendment seeks to provide that the time limit of four years for amending the assessment shall be reckoned from the end of the financial year in which the order under the specified sections of the Income-tax Act was passed, and not from the date of such order, as at present.

The amendment will take effect from 1st October, 1984.

*Clause 80* seeks to amend section 16 of the Companies (Profits) Surtax Act relating to revision of orders prejudicial to revenue.

*Sub-clause (a)* seeks to insert an *Explanation* to sub-section (1) of section 16.

Under the existing provision, the Commissioner is empowered to revise any order passed by the Income-tax Officer under the Companies (Profits) Surtax Act, if he considers that such order is erroneous in so far as it is prejudicial to the interests of the revenue. The *Explanation* seeks to clarify that, for the purposes of this section, an order passed by the Income-tax Officer shall include an order passed by the Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of an Income-tax Officer conferred on, or assigned to him under clause (a) of sub-section (1) of section 125 or under sub-section (1) of section 125A of the Income-tax Act as applied by section 18 of the Companies (Profits) Surtax Act.

*Sub-Clause (b)* seeks to substitute sub-section (2) of section 16 by a new sub-section.

Under the existing provision, no order of revision can be made by the Commissioner after the expiry of two years from the date of the order sought to be revised. The Commissioner is also debarred from revising an order of re-assessment. Under the substituted provision, the time limit of two years for the making of an order under this section shall be reckoned from the end of the financial year in which the order sought to be revised was made by the assessing officer. The prohibition against revision of orders of re-assessment is also being removed.

These amendments will take effect from 1st October, 1984.

*Clause 81* seeks to amend section 13 of the Compulsory Deposit Scheme (Income-tax Payers) Act relating to rectification of mistakes.

The proposed amendment seeks to provide that the time limit of four years for rectifying mistakes shall be reckoned from the end of the financial year in which the order sought to be amended was passed, and not from the date of such order, as at present.

The amendment will take effect from 1st October, 1984.

*Clause 82* seeks to amend section 17 of the Interest-tax Act relating to rectification of mistakes.

The proposed amendment seeks to provide that the time limit of four years for rectifying mistakes shall be reckoned from the end of the financial year in which the order sought to be amended was passed, and not from the date of such order, as at present.

The amendment will take effect from 1st October, 1984.

*Clause 83* seeks to amend section 19 of the Interest-tax Act relating to revision of order prejudicial to revenue.

*Sub-clause (a)* seeks to insert an *Explanation* to sub-section (1) of section 19.

Under the existing provisions, the Commissioner is empowered to revise any order passed by the Income-tax Officer under the Interest-tax Act, if he considers that such order is erroneous in so far as it is prejudicial to the interests of the revenue. The *Explanation* seeks to clarify that for the purposes of this sub-section, an order passed by the Income-tax Officer shall include an order passed by the Inspecting Assistant Commissioner in exercise of the powers of an Income-tax Officer conferred on him under clause (a) of sub-section (1) of section 125 of the Income-tax Act as applied by section 21 of the Interest-tax Act.

*Sub-Clause (b)* seeks to substitute sub-section (2) of section 19 by a new sub-section.

Under the existing provision, no order of revision can be made by the Commissioner after the expiry of two years from the date of the order sought to be revised. The Commissioner is also debarred from revising an order of re-assessment. Under the substituted provision, the time limit of 2 years for the purposes of making an order under this section shall be reckoned from the end of the financial year in which the order sought to be revised was made by the assessing officer. The prohibition against revision of orders of re-assessment is also being removed.



These amendments will take effect from 1st October, 1984.

*Clause 84* seeks to clarify the provisions relating to applicability of revised rate of interest.

**The clause** seeks to clarify that where interest is payable under any provision of the Income-tax Act referred to in clause 24 of this Bill or section 31 or section 34A of the Wealth-tax Act; or section 32 or section 33A of the Gift-tax Act or sections 7B to 7D and section 18 of the Companies (Profits) Surtax Act; or section 21 of the Interest-tax Act, in respect of any period commencing on or before 30th September, 1984 and ending after that date, such interest shall, in respect of the period falling after that date be calculated at the rate of 15 per cent. per annum.

This amendment will take effect from 1st October, 1984.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7(ii)(c) of the Bill seeks to insert a new sub-clause (vi) in section 17(2) of the Income-tax Act relating to definition of "perquisite". The proposed sub-clause seeks to provide that where the employer has advanced any loan to the employee for specified purposes and either no interest is charged by the employer on the amount of such loan or interest is charged at a rate lower than the rate of interest which the Central Government may, having regard to the rate of interest charged by it from its employees on loan for such purposes granted to them, specify in this behalf by notification in the Official Gazette, the difference between the interest calculated on such loan at the rate so specified and the interest, if any, charged by the employer on such loan shall be treated as a perquisite of the employee. The calculation of the interest on such loan at the rate so specified will have to be made in the prescribed manner.

2. Clause 25(b)(ii) seeks to substitute clause (b) of section 139(8) of the Income-tax Act. The new clause provides that where as a result of an order under certain sections of the said Act, the amount of tax on which interest was payable by the assessee under sub-section (8) of section 139 has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly. In a case where the interest is increased, the Income-tax Officer shall serve on the assessee, a notice of demand in the form to be prescribed specifying the sum payable.

3. Clause 31 seeks to insert a new Chapter XIVA in the Income-tax Act. The new section 158A contained in that Chapter provides for procedure when an assessee claims that a question of law arising in his case for an assessment year which is pending before the Income-tax Officer or any appellate authority is identical with a question of law arising in his case for another assessment year which is pending before the High Court or the Supreme Court. In such cases, the assessee may furnish to the Income-tax Officer or the appellate authority, as the case may be, a declaration in the prescribed form and verified in the prescribed manner, that if the Income-tax Officer or the appellate authority, as the case may be, agrees to apply to the relevant case the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case in appeal before any appellate authority or for a reference before the High Court or the Supreme Court or in appeal before the Supreme Court under the provisions of the Income-tax Act.

4. Clause 35(b) seeks to substitute sub-section (1A) of section 214 of the Income-tax Act. The new sub-section provides that where as a result of an order under the specified sections of that Act, the amount on which interest was payable by the Central Government under sub-section (1) of section 214 has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly. In a case where interest is reduced, the Income-tax Officer shall serve on the assessee, a notice of demand in the form to be prescribed specifying the amount of the excess interest paid and requiring him to pay such amount.

5. Clause 36(a) seeks to substitute sub-section (3) of section 215 of the Income-tax Act. The new sub-section provides that where as a result

of an order under the specified sections of that Act, the amount on which interest was payable by the assessee under sub-section (1) of that section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly. In a case where interest is increased, the Income-tax Officer shall serve on the assessee, a notice of demand in the form to be prescribed specifying the sum payable.

6. Clause 40 seeks to substitute sub-section (1) of section 245C of the Income-tax Act. The new sub-section provides that an assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his income which has not been disclosed before the Income-tax Officer, the manner in which such income has been derived, the additional amount of income-tax payable on such income and such other particulars as may be prescribed, to the Settlement Commission to have the case settled.

7. Clause 59 seeks to insert a new Chapter IVA in the Wealth-tax Act. The new section 18C contained in that Chapter provides for the procedure for avoiding repetitive appeals which is similar to the procedure laid down in new section 158A proposed to be inserted in the Income-tax Act *vide* clause 31 of the Bill. As provided under new section 158A, a declaration by the assessee under new section 18C of the Wealth-tax Act will also have to be made in the prescribed form and verified in the prescribed manner.

8. Clause 61 seeks to substitute sub-section (1) of section 22C of the Wealth-tax Act. The new sub-section provides that an assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his wealth which has not been disclosed before the Wealth-tax Officer, the manner in which such wealth has been derived, the additional amount of wealth-tax payable on such wealth and such other particulars as may be prescribed, to the Settlement Commission to have the case settled.

9. The delegation of legislative power under the afore-mentioned provisions relates to matters of procedure or of administrative detail. The delegation of legislative power is, therefore, of a normal character.

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SUBHASH C. KASHYAP,  
*Secretary-General.*